Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 22. March 8, 2020 Text Messages With Co-Chief Crowley Beginning at Approximately 9:40 p.m.

Bove	Ugh send the draft clowns
	* * *
Crowley	Ugh where is it

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

From: Krouse, Michael (USANYS)

To: Crowley, Shawn (USANYS); Bove, Emil (USANYS)
Cc: Lake, Stephanie (USANYS); Kim, Jane (USANYS) 4

Subject: Draft

Date: Sunday, March 8, 2020 9:49:51 PM

Attachments: 2020.03.08 Letter to Nathan re GX 411 (2).docx

Not sure Stephanie sent this to you.

From: Lake, Stephanie (USANYS) <SLake@usa.doj.gov>

Sent: Sunday, March 8, 2020 9:31 PM

To: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>; Krouse, Michael (USANYS)

<MKrouse@usa.doj.gov>; Lynch, Garrett <LynchG@dany.nyc.gov>; Lynch, Garrett (USANYS)

[Contractor] < GLynch@usa.doj.gov>

Subject: RE: Proofing and then I'll file these objections

Here's a shitty draft.

From: Kim, Jane (USANYS) 4 < < !Kim4@usa.doj.gov >

Sent: Sunday, March 08, 2020 9:15 PM

To: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">MKrouse@usa.doj.gov; Lynch, Garrett < Lynch, Garrett <a href="

Lake, Stephanie (USANYS) < SLake@usa.doi.gov>; Lynch, Garrett (USANYS) [Contractor]

<<u>GLynch@usa.doj.gov</u>>

Subject: Proofing and then I'll file these objections

In 10 minutes unless anyone has objections.

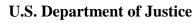
Jane Kim

Assistant United States Attorney Southern District of New York One St. Andrew's Plaza

New York, New York 10007 Phone: (212) 637-2038

Email: jane.kim@usdoj.gov

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 5 of 296



100

United States Attorney Southern District of New York

The Silvio J. Mollo Building One Saint Andrew's Plaza New York, New York 10007

March 8, 2020

FILED BY ECF

The Honorable Alison J. Nathan United States District Judge Southern District of New York United States Courthouse 40 Foley Square, Courtroom 1306 New York, New York 10007

Re: United States v. Ali Sadr Hashemi Nejad, 18 Cr. 224 (AJN)

Dear Judge Nathan:

The Court writes in response to the Court's order from 9:00 this evening. The Government apologizes for the lack of clarity in its prior email.

The Government found GX 411 in its emails on Friday night, looked at the Commerzbank subpoena production, and did not find it. The members of the team discussed the document the next morning and confirmed that it likely had not been produced to the defense previously. The Government had a paralegal stamp it later in the day, and produced it to the defense. The Government did not specifically identify that GX 411 had not previously been produced in discovery. Defense counsel responded shortly after the Government provided GX 411 and asked how long the Government had GX 411, and why they had not previously received it. The Government responded and explained that we had been aware of the letter since mid-January, and had mistakenly believed that it was part of the discovery in the case.

When SAUSA Lynch sent what is now GX 411 to the AUSAs in the case in January, the AUSAs assumed that this was a document that came from this case (specifically, the subpoena to Commerzbank), and that it was therefore a document that had been previously produced to the

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 6 of 296

The Honorable Alison J. Nathan, U.S.D.J. March 8, 2020 Page 2

defense as part of discovery. This was an incorrect assumption. The document in fact was obtained in an unrelated DANY investigation and was not provided to this Office before January 2020.

Respectfully submitted,

GEOFFREY S. BERMAN United States Attorney

By: _____/s/

Jane Kim / Michael Krouse / Stephanie Lake Assistant United States Attorneys Garrett Lynch Special Assistant United States Attorney (212) 637-2038 / 2279 / 1066

cc: Defense Counsel (by ECF)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

From: Kim, Jane (USANYS) 4

To: Crowley, Shawn (USANYS)

Cc: Krouse, Michael (USANYS); Bove, Emil (USANYS)

Subject: RE: Draft

Date: Sunday, March 8, 2020 11:15:23 PM

Attachments: [279] Def resp re brady.pdf [279-1] Def resp re brady.pdf

Minus Stephanie (don't want to stress her out/make her feel more sick).

From: Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov>

Sent: Sunday, March 8, 2020 11:03 PM

To: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>

Cc: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov>; Bove, Emil (USANYS) < EBove@usa.doj.gov>;

Lake, Stephanie (USANYS) <SLake@usa.doj.gov>

Subject: Re: Draft

Thanks guys. Can you forward along any reply? Thank you

And really sorry for the quick turnaround – the order said we had to file by 10.

From: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">MKrouse@usa.doj.gov

Sent: Sunday, March 8, 2020 9:50 PM

To: Crowley, Shawn (USANYS) <<u>SCrowley@usa.doj.gov</u>>; Bove, Emil (USANYS)

<<u>EBove@usa.doj.gov</u>>

Cc: Lake, Stephanie (USANYS) < SLake@usa.doj.gov>; Kim, Jane (USANYS) 4

<JKim4@usa.doj.gov>

Subject: Draft

Not sure Stephanie sent this to you.

From: Lake, Stephanie (USANYS) < <u>SLake@usa.doj.gov</u>>

Sent: Sunday, March 8, 2020 9:31 PM

To: Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>>; Krouse, Michael (USANYS)

<<u>MKrouse@usa.doj.gov</u>>; Lynch, Garrett <<u>LynchG@dany.nyc.gov</u>>; Lynch, Garrett

(USANYS) [Contractor] < GLynch@usa.doj.gov>

Subject: RE: Proofing and then I'll file these objections

Here's a shitty draft.

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 9 of 296

From: Kim, Jane (USANYS) 4 < < !Kim4@usa.doj.gov >

Sent: Sunday, March 08, 2020 9:15 PM

To: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">MKrouse@usa.doj.gov>; Lynch, Garrett

<<u>LynchG@dany.nyc.gov</u>>; Lake, Stephanie (USANYS) <<u>SLake@usa.doj.gov</u>>; Lynch,

Garrett (USANYS) [Contractor] < GLynch@usa.doj.gov> Subject: Proofing and then I'll file these objections

In 10 minutes unless anyone has objections.

Jane Kim
Assistant United States Attorney
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

Phone: (212) 637-2038 Email: jane.kim@usdoj.gov Brian M. Heberlia 202 429 8134 bheberlig@steptoe.com



1330 Connecticut Avenue, NW Washington, DC 20036-1795 202 429 3000 main www.steptoe.com

March 8, 2020

By ECF

The Honorable Alison J. Nathan **United States District Court** Southern District of New York 40 Foley Square, Room 2102 New York, NY 10007

> Re: *United States v. Ali Sadr Hashemi Nejad*, Case No. 18-cr-224 (AJN)

Dear Judge Nathan:

BRUSSELS

CHICAGO

HONG KONG

We respectfully reply to the government's 10 p.m. letter regarding the belated production of GX 411. Dkt. No. 77. We also note that whereas the government apparently has access to documents that Commerzbank produced in response to a subpoena in some other matter, the government produced to defense exactly four documents from Commerzbank's subpoena return in this matter (including a blank envelope and a duplicate).

We attach the relevant correspondence between the parties that followed the first identification of GX 411 on Saturday March 7, 2020. We will be prepared to address the matter in Court tomorrow.

Respectfully submitted,

/s/ Brian M. Heberlig_

Reid H. Weingarten STEPTOE & JOHNSON LLP 1114 Avenue of the Americas New York, NY 10036 Tel: (212) 506-3900

Fax: (212) 506-3950 rweingarten@steptoe.com

BEIJING LONDON WASHINGTON

LOS ANGELES

NEW YORK

SAN FRANCISCO

Casea 4:18:18-023/28/21 Prophete 400-49 Films 1023/28/210 Prope 11 of 296

The Honorable Alison J. Nathan March 8, 2020 Page 2



Brian M. Heberlig (*Pro Hac Vice*)
Bruce C. Bishop (*Pro Hac Vice*)
David M. Fragale
Nicholas P. Silverman (*Pro Hac Vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
Tel: (202) 429-3000Bishop
Fax: (202) 429-3902

bheberlig@steptoe.com

Counsel for Defendant Ali Sadr Hashemi Nejad

cc: Counsel of Record (via ECF)

Exhibit A

From: Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov>

Sent: Saturday, March 7, 2020 5:36 PM

To: Heberlig, Brian; Lake, Stephanie (USANYS); Weingarten, Reid; Silverman, Nicholas

Cc: Krouse, Michael (USANYS); Lynch, Garrett (USANYS) [Contractor]; Milione, Shawn (USANYS)

[Contractor]

Subject: RE: U.S. v. Sadr

Brian,

We do not agree with your characterization of GX 430, 431, 432, or 411 as *Brady*. These are all exhibits the Government has introduced or is seeking to introduce in our case. Perhaps you can explain how it is you think GX 411 is helpful to your case.

In any event, we have been aware of the letter since mid-January. We thought it was part of the Commerzbank subpoena return that was produced in discovery. We now understand that it came from an unrelated DANY investigation, and therefore was not in the Commerzbank subpoena return.

It is not clear to us how this document would have been relevant to the OFAC witness's testimony.

Jane

From: Heberlig, Brian <BHeberlig@steptoe.com>

Sent: Saturday, March 7, 2020 4:57 PM

To: Lake, Stephanie (USANYS) <SLake@usa.doj.gov>; Weingarten, Reid <RWeingarten@steptoe.com>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) <MKrouse@usa.doj.gov>; Kim, Jane (USANYS) 4 <JKim4@usa.doj.gov>; Lynch, Garrett (USANYS) [Contractor] <GLynch@usa.doj.gov>; Milione, Shawn (USANYS) [Contractor] <SMilione@usa.doj.gov>

Subject: RE: U.S. v. Sadr

We request immediate disclosure of (1) where GX411 came from, (2) how long it has been in the government's possession, (3) why we are only receiving it today. This is the second episode—along with GX430, GX431, and GX432—of the government producing fundamentally exculpatory documents mid-trial. In this instance, the document was produced after the government's OFAC witness, who would have been subject to cross-examination on this document. Provide this information by 6 pm or we will see the intervention of the Court.

From: Lake, Stephanie (USANYS) < Stephanie.Lake@usdoj.gov>

Sent: Saturday, March 7, 2020 4:24 PM

To: Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Silverman, Nicholas <<u>nsilverman@steptoe.com</u>>

Cc: Krouse, Michael (USANYS) < Michael.Krouse@usdoj.gov>; Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov>; Lynch, Garrett (USANYS) [Contractor] < Garrett.Lynch@usdoj.gov>; Milione, Shawn (USANYS) [Contractor]

<<u>Shawn.Milione@usdoj.gov</u>>

Subject: RE: U.S. v. Sadr

Counsel,

Cases 1:18 t gr c 1000242 A JUND protein ant 14007 1-1 Fila the 12/13 21/12 10 Page 14:45 of 1296

We attempted to send you a number of attachments, which will not go through without encryption. It looks like Steptoe's servers are blocking the encrypted email. Shawn will upload the files to the link he has been using. The descriptions are below.

Stephanie

From: Lake, Stephanie (USANYS)

Sent: Saturday, March 07, 2020 4:04 PM

To: Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) < <u>MKrouse@usa.doj.gov</u>>; Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>>; Lynch, Garrett (USANYS) [Contractor] < <u>GLynch@usa.doj.gov</u>>; Milione, Shawn (USANYS) [Contractor] < <u>SMilione@usa.doj.gov</u>>

Subject: U.S. v. Sadr

Counsel,

Mr. Dubowitz is still very ill. As a result, we do not intend to call him as a witness in our case-in-chief. It's possible that, depending on the defense case, we will call him as a rebuttal witness.

In addition, we've attached the following documents:

- Updated GX 2284D there were formatting problems with our version. We think the attached corrects them.
- 3508-08 3500 from today
- GX 411 we intend to offer this on Monday. Let us know if you will stipulate to authenticity.
- GX 456 we intend to offer this on Monday. Let us know if you will stipulate to authenticity.
- GX 495A & B we intend to offer these on Monday (likely in redacted form), although think a stipulation that the defendant had bank accounts at HSBC from January 2010 through October 2013 might be simpler. Let us know how you prefer to proceed.
- GX 704 this is the modified version of the travel chart. Please confirm whether you have any remaining concerns.
- GX 705A & B these are summary charts reflecting the information in GX 2090A. Please confirm whether you have any objections.
- Updated GX 2304A we enlarged some of the cells, as the formatting of the PDFd excel file was cutting off some of the data. The content is the same.
- 3504-10 Peri 3500, which was provided in hard copy yesterday morning.
- 3505-06 Blair 3500, which was provided in hard copy yesterday morning.
- 3513-02 Paralegal 3500 for summary chart (you may already have this)
- 3513-03 Paralegal 3500 for summary chart (you may already have this)

We are still working on one additional summary chart, which we expect to provide later today.

Stephanie Lake Assistant United States Attorney Southern District of New York One Saint Andrew's Plaza New York, NY 10007

Tel: (212) 637-1066

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 25. March 8, 2020 Text Message to Co-Chief Crowley At Approximately 10:31 p.m.

Bove	I'm just waiting for the next ajn bomb right now
20,0	The first warring for the ment will connect the ment

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 18 of 296

From: Krouse, Michael (USANYS)

To: Crowley, Shawn (USANYS); Bove, Emil (USANYS)
Cc: Kim, Jane (USANYS) 4; Lake, Stephanie (USANYS)

Subject: Here is the reply

Date: Sunday, March 8, 2020 11:19:08 PM

Attachments: Defense reply.pdf

Defense reply (attachment).pdf

Michael Krouse Assistant United States Attorney Southern District of New York One St. Andrew's Plaza New York, NY 10007 (212) 637-2279 Brian M. Heberlig 202 429 8134 bheberlig@steptoe.com



1330 Connecticut Avenue, NW Washington, DC 20036-1795 202 429 3000 main www.steptoe.com

March 8, 2020

By ECF

The Honorable Alison J. Nathan United States District Court Southern District of New York 40 Foley Square, Room 2102 New York, NY 10007

Re: United States v. Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

Dear Judge Nathan:

We respectfully reply to the government's 10 p.m. letter regarding the belated production of GX 411. Dkt. No. 77. We also note that whereas the government apparently has access to documents that Commerzbank produced in response to a subpoena in some other matter, the government produced to defense exactly four documents from Commerzbank's subpoena return in this matter (including a blank envelope and a duplicate).

We attach the relevant correspondence between the parties that followed the first identification of GX 411 on Saturday March 7, 2020. We will be prepared to address the matter in Court tomorrow.

Respectfully submitted,

<u>/s/ Brian M. Heberlig</u>

Reid H. Weingarten STEPTOE & JOHNSON LLP 1114 Avenue of the Americas New York, NY 10036 Tel: (212) 506-3900

Fax: (212) 506-3950 rweingarten@steptoe.com

BEIJING BRUSSELS CHICAGO HONG KONG LONDON LOS ANGELES NEW YORK SAN FRANCISCO WASHINGTON

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The Honorable Alison J. Nathan March 8, 2020 Page 2



Brian M. Heberlig (*Pro Hac Vice*)
Bruce C. Bishop (*Pro Hac Vice*)
David M. Fragale
Nicholas P. Silverman (*Pro Hac Vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
Tel: (202) 429-3000Bishop
Fax: (202) 429-3902

bheberlig@steptoe.com

Counsel for Defendant Ali Sadr Hashemi Nejad

cc: Counsel of Record (via ECF)

Exhibit A

From: Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov>

Sent: Saturday, March 7, 2020 5:36 PM

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Cc: Krouse, Michael (USANYS); Lynch, Garrett (USANYS) [Contractor]; Milione, Shawn (USANYS)

[Contractor]

Subject: RE: U.S. v. Sadr

Brian,

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In any event, we have been aware of the letter since mid-January. We thought it was part of the Commerzbank subpoena return that was produced in discovery. We now understand that it came from an unrelated DANY investigation, and therefore was not in the Commerzbank subpoena return.

It is not clear to us how this document would have been relevant to the OFAC witness's testimony.

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Cc: Krouse, Michael (USANYS) < Michael.Krouse@usdoj.gov>; Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov>; Lynch, Garrett (USANYS) [Contractor] < Garrett.Lynch@usdoj.gov>; Milione, Shawn (USANYS) [Contractor]

<<u>Shawn.Milione@usdoj.gov</u>>

Subject: RE: U.S. v. Sadr

Counsel,

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Subject: U.S. v. Sadr

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We are still working on one additional summary chart, which we expect to provide later today.

Stephanie Lake Assistant United States Attorney Southern District of New York One Saint Andrew's Plaza New York, NY 10007

Tel: (212) 637-1066

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 27. March 8, 2020 Text Messages With Co-Chief Crowley Beginning At Approximately 11:05 p.m.

Bove	Attaching file titled "127126528755.pdf," i.e., Dkt. No. 278
Bove	Says he "will testify"
Crowley	I still don't believe it but we probably should have talked to Garrett about cross
Crowley	Also, is this in opposition to jane's letter last week?
Bove	No they filed objections tonight
Crowley	Oh sorry
Crowley	Attaching file titled "127126528759.pdf," i.e., Dkt. No. 279-1
Crowley	Oh man
Crowley	Is this what Jane sent before I couldn't open it?
Crowley	Oops no ?
Bove	Damn. I did not see this.
Crowley	Ugh
Bove	"We now understand"
Bove	Flat lie.
Crowley	Did you see their letter?
Crowley	They may ask for a mistrial or adjournment
Crowley	(They didn't say this I'm just guessing)
Crowley	Teeing up that there's a whole Commerzbank database and we
	have no clue what's in it
Bove	Little speechless here. Just have to weather it.
Bove	Is it crazy to respond to that email and ask that they stay on the
	case file review? We said it once already. Maybe too much
Crowley	I probably wouldn't. We said it. I am afraid Jane is also going to
	drop and we just need manpower at this point

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 27 of 296

From: Kim, Jane (USANYS) 4

To: Bove, Emil (USANYS); Crowley, Shawn (USANYS)

Cc: Krouse, Michael (USANYS)

Subject: RE: Draft

Date: Sunday, March 8, 2020 11:30:19 PM

Attachments: [280] Def resp re brady.pdf [280-1] Def resp re brady.pdf

Their second response. Well, I'm glad Stephanie asked me to send the emails so this doesn't stress her more.

From: Bove, Emil (USANYS) < EBove@usa.doj.gov>

Sent: Sunday, March 8, 2020 11:28 PM

To: Crowley, Shawn (USANYS) <SCrowley@usa.doi.gov>

Cc: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>; Krouse, Michael (USANYS) < MKrouse@usa.doj.gov>

Subject: Re: Draft

We're going to smash these guys.

On Mar 8, 2020, at 11:23 PM, Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov> wrote:

Thank you. We'll leave you guys alone tonight unless you need us. Hang in there—we'll get through this just fine. We're excited for your summations

On Mar 8, 2020, at 11:15 PM, Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>> wrote:

Minus Stephanie (don't want to stress her out/make her feel more sick).

From: Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov>

Sent: Sunday, March 8, 2020 11:03 PM

To: Kim, Jane (USANYS) 4 < < < !Kim4@usa.doj.gov >

Cc: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">MKrouse@usa.doj.gov>; Bove, Emil

(USANYS) < EBove@usa.doj.gov >; Lake, Stephanie (USANYS)

<<u>SLake@usa.doj.gov</u>>

Subject: Re: Draft

Thanks guys. Can you forward along any reply? Thank you

<<u>JKim4@usa.doj.gov</u>> wrote:

And really sorry for the quick turnaround – the order said we had to file by 10.

From: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov>

Sent: Sunday, March 8, 2020 9:50 PM

To: Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov;

Bove, Emil (USANYS) < EBove@usa.doj.gov>

Cc: Lake, Stephanie (USANYS) < <u>SLake@usa.doj.gov</u>>; Kim,

Jane (USANYS) 4 < < < !SKim4@usa.doj.gov >

Subject: Draft

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From: Lake, Stephanie (USANYS) < <u>SLake@usa.doj.gov</u>>

Sent: Sunday, March 8, 2020 9:31 PM

To: Kim, Jane (USANYS) 4 < <u>IKim4@usa.doj.gov</u>>; Krouse, Michael (USANYS) < <u>MKrouse@usa.doj.gov</u>>; Lynch, Garrett

<<u>LynchG@dany.nyc.gov</u>>; Lynch, Garrett (USANYS)

[Contractor] < GLynch@usa.doj.gov>

Subject: RE: Proofing and then I'll file these objections

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From: Kim, Jane (USANYS) 4 < < !Kim4@usa.doj.gov >

Sent: Sunday, March 08, 2020 9:15 PM

To: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">; Lynch, Garrett < ; Lake, Stephanie (USANYS) < SLake@usa.doj.gov">; Lynch, Garrett (USANYS) [Contractor] < GLynch@usa.doj.gov>

Subject: Proofing and then I'll file these objections

In 10 minutes unless anyone has objections.

Jane Kim Assistant United States Attorney Southern District of New York One St. Andrew's Plaza New York, New York 10007

Phone: (212) 637-2038 Email: jane.kim@usdoj.gov <[279] Def resp re brady.pdf> <[279-1] Def resp re brady.pdf> Brian M. Heberlig 202 429 8134 bheberlig@steptoe.com



1330 Connecticut Avenue, NW Washington, DC 20036-1795 202 429 3000 main www.steptoe.com

March 8, 2020

By ECF

The Honorable Alison J. Nathan United States District Court Southern District of New York 40 Foley Square, Room 2102 New York, NY 10007

Re: United States v. Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

Dear Judge Nathan:

We respectfully submit the attached Exhibit B to our letter response to the government's explanation for its Saturday afternoon production of GX 411. Exhibit B is a more complete version of Exhibit A.

Respectfully submitted,

/s/ Brian M. Heberlig

Reid H. Weingarten STEPTOE & JOHNSON LLP 1114 Avenue of the Americas New York, NY 10036 Tel: (212) 506-3900

Fax: (212) 506-3950 rweingarten@steptoe.com

Brian M. Heberlig (*Pro Hac Vice*)
Bruce C. Bishop (*Pro Hac Vice*)
David M. Fragale
Nicholas P. Silverman (*Pro Hac Vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
Tel: (202) 429-3000Bishop

Fax: (202) 429-3902

BEIJING BRUSSELS CHICAGO HONG KONG LONDON LOS ANGELES NEW YORK SAN FRANCISCO WASHINGTON

Casea 3-18-28-022022414JNPODURGANTE-1820 Filmsh023788720 F72096-32 of 296

The Honorable Alison J. Nathan March 8, 2020 Page 2



bheberlig@steptoe.com

Counsel for Defendant Ali Sadr Hashemi Nejad

cc: Counsel of Record (via ECF)

Exhibit B

From: Silverman, Nicholas

Sent: Sunday, March 8, 2020 1:36 PM

To: Kim, Jane (USANYS) 4; Heberlig, Brian; Lake, Stephanie (USANYS); Weingarten, Reid

Cc: Krouse, Michael (USANYS); Lynch, Garrett (USANYS) [Contractor]; Milione, Shawn (USANYS)

[Contractor]

Subject: RE: U.S. v. Sadr

Attachments: 092-1 2019-02-25 Pretrial Mem 6 - Exhibit A-c2.pdf

Counsel:

- (1) Are there any other documents in the government's possession that have not been produced?
- (2) Is there any other *Brady* information in the government's possession that has not been produced?
- (3) Is there any information in the government's possession, custody, or control showing OFAC's response to this letter? This is subject to production under *Giglio* and/or *Napue* because it would at a minimum undermine Ted Kim's testimony (A) that to his knowledge, nothing relating to this matter was investigated by OFAC, (B) that "it matters a lot" if Iranian involvement in a transaction is concealed, and (C) that hiding "Iranian connections ... would make it very difficult for me to do my job."
- (4) As we have said, our requests for *Brady* and *Giglio* are continuing in nature. I have attached our September 2018 letter in case you want a non-exclusive list of examples of the type of information covered by *Brady* and *Giglio* in this case. Obviously, any information contrary to government witness testimony would be another example.
- (5) Regarding the authenticity of GX 411, we stipulate to authenticity.
- (6) GX 704 Please let us know what modifications have been made.
- (7) GX 495A, 495B What is the relevance of Sadr having bank accounts at HSBX from January 2010 through October 2013?
- (8) GX 456 We are reviewing and anticipate stipulating to authenticity.
- (9) GX 705A & 705B We are reviewing.
- (10) GX 2304A Subject to our continuing objection (which we understand to have been overruled), no further objection.

Nicholas P. Silverman

Associate

nsilverman@steptoe.com

Steptoe

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From: Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov>

Sent: Sunday, March 8, 2020 9:41 AM

Coase 1188 C000244 ANN Dosumaet 429041 Find 00000000 Pagg 34 of 296

To: Heberlig, Brian <BHeberlig@steptoe.com>; Lake, Stephanie (USANYS) <Stephanie.Lake@usdoj.gov>; Weingarten, Reid <RWeingarten@steptoe.com>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) <Michael.Krouse@usdoj.gov>; Lynch, Garrett (USANYS) [Contractor] <Garrett.Lynch@usdoj.gov>; Milione, Shawn (USANYS) [Contractor] <Shawn.Milione@usdoj.gov>

Subject: RE: U.S. v. Sadr

Brian, Reid, and Nick:

As I explained in my last email, when we first saw the document in mid-January, we thought it had been part of Commerzbank's subpoena return and had been produced. We didn't think it would be necessary to use given our other evidence about that payment. Given some of the arguments you made on Friday, we decided that we did want to introduce it at trial.

Again, we don't see this document as exculpatory, as we would like to offer it tomorrow. Can you please let us know your position on an authenticity stipulation for this document and the other bank records we sent yesterday, as well as whether you have any issues with the summary charts?

Thanks, Jane

From: Heberlig, Brian <BHeberlig@steptoe.com>

Sent: Saturday, March 7, 2020 10:09 PM

To: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>; Lake, Stephanie (USANYS) < SLake@usa.doj.gov>; Weingarten, Reid < RWeingarten@steptoe.com>; Silverman, Nicholas < nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) <MKrouse@usa.doj.gov>; Lynch, Garrett (USANYS) [Contractor] <GLynch@usa.doj.gov>;

Milione, Shawn (USANYS) [Contractor] <SMilione@usa.doj.gov>

Subject: RE: U.S. v. Sadr

If you have been aware of the letter since mid-January, why wasn't it on the government's pretrial exhibit list instead of appearing the day before the government rests its case? The exculpatory nature of the exhibit is self-evident.

From: Kim, Jane (USANYS) 4 < <u>Jane.Kim@usdoj.gov</u>>

Sent: Saturday, March 7, 2020 5:36 PM

To: Heberlig, Brian <BHeberlig@steptoe.com>; Lake, Stephanie (USANYS) <Stephanie.Lake@usdoj.gov>; Weingarten,

Reid <RWeingarten@steptoe.com>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) < Michael.Krouse@usdoj.gov">Michael.Krouse@usdoj.gov; Lynch, Garrett (USANYS) [Contractor] < Shawn.Milione@usdoj.gov>

Subject: RE: U.S. v. Sadr

Brian,

We do not agree with your characterization of GX 430, 431, 432, or 411 as *Brady*. These are all exhibits the Government has introduced or is seeking to introduce in our case. Perhaps you can explain how it is you think GX 411 is helpful to your case.

In any event, we have been aware of the letter since mid-January. We thought it was part of the Commerzbank subpoena return that was produced in discovery. We now understand that it came from an unrelated DANY investigation, and therefore was not in the Commerzbank subpoena return.

It is not clear to us how this document would have been relevant to the OFAC witness's testimony.

Jane

From: Heberlig, Brian < BHeberlig@steptoe.com>

Sent: Saturday, March 7, 2020 4:57 PM

To: Lake, Stephanie (USANYS) <<u>SLake@usa.doj.gov</u>>; Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Silverman,

Nicholas <<u>nsilverman@steptoe.com</u>>

Cc: Krouse, Michael (USANYS) < <u>MKrouse@usa.doj.gov</u>>; Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>>; Lynch, Garrett (USANYS) [Contractor] < <u>GLynch@usa.doj.gov</u>>; Milione, Shawn (USANYS) [Contractor] < <u>SMilione@usa.doj.gov</u>>

Subject: RE: U.S. v. Sadr

We request immediate disclosure of (1) where GX411 came from, (2) how long it has been in the government's possession, (3) why we are only receiving it today. This is the second episode—along with GX430, GX431, and GX432—of the government producing fundamentally exculpatory documents mid-trial. In this instance, the document was produced after the government's OFAC witness, who would have been subject to cross-examination on this document. Provide this information by 6 pm or we will see the intervention of the Court.

From: Lake, Stephanie (USANYS) < Stephanie.Lake@usdoj.gov>

Sent: Saturday, March 7, 2020 4:24 PM

To: Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) < <u>Michael.Krouse@usdoj.gov</u>>; Kim, Jane (USANYS) 4 < <u>Jane.Kim@usdoj.gov</u>>; Lynch, Garrett (USANYS) [Contractor] < <u>Garrett.Lynch@usdoj.gov</u>>; Milione, Shawn (USANYS) [Contractor]

<Shawn.Milione@usdoj.gov>

Subject: RE: U.S. v. Sadr

Counsel,

We attempted to send you a number of attachments, which will not go through without encryption. It looks like Steptoe's servers are blocking the encrypted email. Shawn will upload the files to the link he has been using. The descriptions are below.

Stephanie

From: Lake, Stephanie (USANYS)

Sent: Saturday, March 07, 2020 4:04 PM

To: Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Silverman, Nicholas <<u>nsilverman@steptoe.com</u>>

Cc: Krouse, Michael (USANYS) < <u>MKrouse@usa.doj.gov</u>>; Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>>; Lynch, Garrett (USANYS) [Contractor] < <u>GLynch@usa.doj.gov</u>>; Milione, Shawn (USANYS) [Contractor] < <u>SMilione@usa.doj.gov</u>> **Subject:** U.S. v. Sadr

Counsel,

Mr. Dubowitz is still very ill. As a result, we do not intend to call him as a witness in our case-in-chief. It's possible that, depending on the defense case, we will call him as a rebuttal witness.

In addition, we've attached the following documents:

Cased 1188 C000224ANN Document 429041 Fitted 000900420 Pagg 35 of 296

- Updated GX 2284D there were formatting problems with our version. We think the attached corrects them.
- 3508-08 3500 from today
- GX 411 we intend to offer this on Monday. Let us know if you will stipulate to authenticity.
- GX 456 we intend to offer this on Monday. Let us know if you will stipulate to authenticity.
- GX 495A & B we intend to offer these on Monday (likely in redacted form), although think a stipulation that the defendant had bank accounts at HSBC from January 2010 through October 2013 might be simpler. Let us know how you prefer to proceed.
- GX 704 this is the modified version of the travel chart. Please confirm whether you have any remaining concerns.
- GX 705A & B these are summary charts reflecting the information in GX 2090A. Please confirm whether you have any objections.
- Updated GX 2304A we enlarged some of the cells, as the formatting of the PDFd excel file was cutting off some of the data. The content is the same.
- 3504-10 Peri 3500, which was provided in hard copy yesterday morning.
- 3505-06 Blair 3500, which was provided in hard copy yesterday morning.
- 3513-02 Paralegal 3500 for summary chart (you may already have this)
- 3513-03 Paralegal 3500 for summary chart (you may already have this)

We are still working on one additional summary chart, which we expect to provide later today.

Stephanie Lake
Assistant United States Attorney
Southern District of New York
One Saint Andrew's Plaza
New York, NY 10007
Tel: (212) 637-1066

COSSER 11 DES TOP ORD 2524 AND C DOCHUM PRET 14 DESCRIPTION FIRE DESCRIPTION FRANCE DE COSSER 11 DESCRIPTION PRES DE COSSER 12 DE COS

Brian M. Heberlig 202 429 8134 bheberlig@steptoe.com



1330 Connecticut Avenue, NW Washington, DC 20036-1795 202 429 3000 main www.steptoe.com

September 25, 2018

By Electronic Mail

Andrew DeFilippis
Matthew Laroche
Rebekah Donaleski
Assistant United States Attorneys
Garrett Lynch
Special Assistant United States Attorney
U.S. Attorney's Office for the
Southern District of New York
1 St. Andrew's Plaza
New York, NY 10007

Re: United States v. Ali Sadr Hashemi Nejad, No. 18 Cr. 224 (ALC)

Request for Discovery, Brady Material, and Particulars

Dear Counsel:

On behalf of defendant Ali Sadr Hashemi Nejad, we request that the government provide "open file" discovery in this case, including the prompt production of all of the documents and other evidence it has obtained in its investigation and all grand jury transcripts, FBI 302s, and interview memoranda.

In the event that you elect not to provide "open file" discovery, Sadr respectfully submits this formal request for discovery in this case, pursuant to the Fifth and Sixth Amendments to the United States Constitution; Rules 12, 16, and 26.2 of the Federal Rules of Criminal Procedure; *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and progeny; the Department of Justice's "Guidance for Prosecutors Regarding Criminal Discovery"; and the additional authority set forth below.

We understand that Sadr's prior counsel at Arnold & Porter made earlier discovery requests in this matter, including requests in letters and emails dated: March 21, March 25,

BEIJING BRUSSELS CHICAGO LONDON LOS ANGELES NEW YORK PHOENIX SAN FRANCISCO WASHINGTON

September 25, 2018 Page 2



March 29, April 3, May 15, July 5, July 10, July 26, August 2, August 23, and September 4, 2018. We adopt those requests and ask that you provide any future responsive material directly to us. Arnold & Porter has provided us with copies of your prior discovery letters and emails and the discovery productions to date, and we do not need you to reproduce them to us. Although some of these discovery requests overlap with prior requests by Arnold & Porter, we submit them to ensure that Sadr has fully protected his rights to discovery and *Brady/Giglio* material in this matter.

Sadr requests that you produce and/or permit him to inspect and copy or photograph the materials specified below. This request encompasses not only documents¹ and information in the possession, custody, or control of, or that have been reviewed by, the U.S. Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation, but also documents and information in the possession, custody, and control of, or that have been reviewed by, the Manhattan District Attorney's Office, and any other federal, state or local agency allied with the prosecution or involved in any way in investigating the activities alleged in the Indictment or related conduct. As used in this letter, the words "government" and "you" include your office and the above-referenced federal, state, or local agencies.

Sadr requests that the government comply with all of its discovery obligations under federal law, including, but not limited to, the following:²

I. Search Warrant Returns

We request clarification of the government's position on the discoverability of the data and documents collected pursuant to search warrants in the investigation. It is our understanding that the government has produced the full and unfiltered email accounts of Sadr collected pursuant to search warrants. Arnold & Porter requested the "terabyte" of unfiltered data and documents from non-Sadr accounts obtained pursuant to search warrants, in an April 3, 2018 letter and an August 2, 2018 email. With respect to that data, it is our understanding that the government has produced only a subset of materials that it has deemed "pertinent." We reiterate Sadr's request for complete, unfiltered data and documents from all accounts obtained by the

¹ The word "documents" includes, but is not limited to, all books, papers, letters, correspondence, reports, memoranda, studies, calendars, appointment books, diaries, notes, messages, e-mail, text messages, instant messages, other computer facilitated or transmitted materials, images, photographs, polaroids, information in any computer database, audio and video tapes, recordings, transcripts, ledgers, printouts, contracts, checks, receipts, and all copies or portions thereof, and any other written, recorded, or memorialized material of any nature whatsoever.

² All of these requests are continuing in nature, requiring supplementation in accordance with Fed. R. Crim. P. 16(c).



government pursuant to search warrants. If you decline to provide these materials, please indicate:

- 1. The search terms and/or other filtering process used by the government to identify the "pertinent" documents from the search warrant returns for the non-Sadr accounts; and
- 2. How the government has satisfied its *Brady* obligations with respect to the purportedly non-pertinent data and documents from the search warrant returns for the non-Sadr accounts.

II. Statements of the Defendant

- 1. Any written or recorded statements made by Sadr within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the government. *See* Fed. R. Crim. P. 16(a)(1)(B)(i). This request includes, without limitation:
 - a. All notes, reports, and memoranda summarizing any statement by Sadr to law enforcement officials at the time of his arrest;
 - b. All transcripts and recordings of conversations in which Sadr was a participant;
 - c. All wire and oral communications made by Sadr that were transmitted to or intercepted by, for or on behalf of any government agent or employee or any agency or entity of the U.S. government;
 - d. All written and recorded statements of witnesses that reflect, relate, or incorporate any statements made by Sadr; and
 - e. All other documents that purport to reflect, relate, or incorporate any statements made by Sadr.
- 2. The portion of any written record containing the substance of any oral statement made by Sadr, whether before or after arrest, in response to interrogation by any person then known to the defendant to be a government agent. *See* Fed. R. Crim. P. 16(a)(1)(B)(ii). This request includes without limitation, all documents, including notes, prepared by any FBI employee or agent that contain the substance of any relevant statement made by Sadr.
- 3. The substance of any other oral statement made by Sadr, whether before or after arrest, in response to interrogation by any person then known by Sadr to be a government agent. See Fed. R. Crim. P. 16(a)(1)(A).



III. Documents and Tangible Objects

- 1. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, that were obtained from or belong to Sadr, or that belonged to Sadr at the time of the alleged offenses, or that belong or belonged to any agent of Sadr or any entity allegedly owned or controlled by Sadr. *See* Fed. R. Crim. P. 16(a)(1)(E)(iii). This request includes all documents as to which the government or any entity assigned Sadr as a custodian, whether hard copy or electronic records.
- 2. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, that the government intends to use at trial in its case-in-chief. See Fed. R. Crim. P. 16(a)(1)(E)(ii). We request that any materials in this category be specifically identified from among the materials produced pursuant to the defendant's other Rule 16 and Brady requests, both to enable counsel to prepare effectively for trial and to afford Sadr an opportunity to move to suppress any evidence the prosecution intends to use in its case-in-chief. See Fed. R. Crim. P. 12(b)(3)(C) and 12(b)(4)(B).
- 3. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, that are material to the preparation of Sadr's defense, *see* Fed. R. Crim. P. 16(a)(l)(E)(i), including, but not limited to, those items set forth in paragraphs III.4 to III.14 below.
- 4. All documents reflecting the alleged specific "international financial transactions" at issue in Count Two of the indictment. Indictment ¶ 19.
- 5. All documents reflecting the alleged "financial transactions" at issue in Counts Three and Four of the indictment. Indictment ¶¶ 23, 26.
- 6. All documents reflecting the alleged false and fraudulent pretenses, representations and promises at issue in Counts Three and Four of the indictment. Indictment ¶¶ 23, 26.
- 7. All documents reflecting the alleged monetary transactions and transfers at issue in Counts Five and Six of the indictment. Indictment ¶ 29, 32.
- 8. All documents relating to Sadr or the conduct alleged in the indictment that were introduced as exhibits before the grand jury. We request that any materials in this category be specifically identified from among the materials produced pursuant to the defendant's other Rule 16 and *Brady* requests.
- 9. All documents relating to Sadr or the conduct alleged in the indictment that were obtained by or for the grand jury or pursuant to any grand jury or trial subpoena. This request includes any documents furnished informally to prosecutors in lieu of formal compliance with a subpoena.



- 10. All documents relating to Sadr or the conduct alleged in the indictment obtained from any witness who testified before the grand jury, or who was interviewed or consulted during the course of the grand jury investigation.
- 11. All documents relating to Sadr or the conduct alleged in the indictment that were obtained by any search or seizure pursuant to a search warrant or otherwise.
- 12. All documents relating to Sadr or the conduct alleged in the indictment obtained from any federal, state or local governmental, regulatory or legislative body or agency.
- 13. All documents relating to press releases or press conferences concerning Sadr or the investigation of the defendant, and all other documents relating to any contacts between the government and representatives of the media concerning Sadr or the investigation of the defendant.
- 14. All documents relating to the reputation of Sadr, including, without limitation, any documents relating to Sadr's reputation for honesty, integrity, or competence.

IV. Brady and Giglio Material

Pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, including *Giglio v. United States*, 405 U.S. 150 (1972), *United States v. Agurs*, 427 U.S. 97 (1976), *United States v. Bagley*, 473 U.S. 667 (1985), *Kyles v. Whitney*, 514 U.S. 419 (1995), and New York Rule of Professional Conduct 3.8, Sadr requests immediate identification and disclosure of all documents and information (in whatever form) that are favorable to the defense or that would tend to exculpate Sadr or mitigate his culpability with respect to the charges in the indictment, that would tend to impeach any potential witness against Sadr, or that are relevant to the issue of sentencing, including but not limited to the following:

- 1. Any document or information indicating or tending to establish that any of the allegations in the indictment are not true.
- 2. Any document or information indicating or tending to establish that any meeting, conversation, use of words, practice, or conduct that is the subject of the indictment or forms the basis of the indictment did not violate government laws, regulations, standards or established business practices.
- 3. Any document or information indicating or tending to establish that Sadr believed that any meeting, conversation, use of words, practice, or conduct that is the subject of the indictment or forms the basis of the indictment did not constitute a crime.
- 4. Any document or information indicating or tending to establish that any other person (including but not limited to the alleged co-conspirators) believed that any meeting, conversation, use of words, practice, or conduct that is the subject of the indictment or forms the basis of the indictment did not constitute a crime.

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September 25, 2018 Page 6



- 5. Any documents or information indicating or tending to establish that Sadr did not instigate, control, authorize, approve, or acquiesce in the practices that are the subject of the indictment.
- 6. Any documents or information indicating or tending to establish that the alleged false or fraudulent pretenses were not false.
- 7. Any documents or information indicating or tending to establish that the alleged false or fraudulent pretenses were not material.
- 8. Any documents or information indicating or tending to establish that a third person was responsible for the financial transactions at issue in any count of the indictment.
- 9. Any document or information indicating or tending to establish that Sadr engaged in any conduct that forms the basis of the indictment in reliance upon advice provided by counsel or accountants.
- 10. Any document or information (in whatever form) that could be used to impeach any potential government witness, or any person whose statements will be introduced pursuant to Fed. R. Evid. 801(d)(2)(C), (D), or (E), including but not limited to:
 - a. Any document or information relating to any conviction, arrest, or criminal record of, and any criminal charge brought against, any potential government witness;
 - b. Any document or information relating to promises, consideration, or inducements made to any potential government witness, whether directly to the witness or indirectly to the witness' attorney, friends, family, employer, business associates, or other culpable or at risk third-party. "Consideration" means anything of value or use, including immunity grants, whether formal or informal, witness fees, transportation or relocation assistance, money, dropped or reduced charges or suggestions of favorable treatment with respect to any federal, state or local criminal, civil, or administrative matter, expectations of downward departures or motions for reduction of sentence, considerations regarding forfeiture of assets, or stays of deportation or other immigration status considerations;
 - c. Any document or information tending to show the bias of a potential government witness, including animosity toward Sadr, animosity toward any group or entity of which Sadr is a member or with which Sadr is affiliated, a relationship with the alleged victim, or known but uncharged criminal conduct that may provide an incentive to curry favor with a prosecutor;
 - d. Any document or information affecting the reliability of a potential government witness's testimony, including known alcohol or substance



- abuse, mental health issues or other issues that could affect the witness's ability to perceive and recall events;
- e. Any document or information relating to any inconsistency in statements given by any potential government witness;
- f. Any document or information relating to any inconsistency between agents' and/or prosecutors' rough notes and FBI 302s or other memoranda of interviews of any potential government witness;
- g. Any document or information bearing adversely on the character or reputation for truthfulness of any potential government witness; and
- h. Each specific instance of conduct from which it could be inferred that any potential government witness is untruthful.
- 11. The date of and participants in each and every interview (including not only interviews conducted by the U.S. Attorney's Office or the Manhattan District Attorney's Office, but also interviews conducted by third parties), debriefing, "queen for a day" session, proffer, deposition, or other statement or description of the alleged facts made by each potential government witness (whether directly or indirectly, such as a proffer made by counsel). In addition, please specify, as to each such witness, the first date on which the witness made any allegation that Sadr engaged in any allegedly unlawful conduct or any conduct alleged in the indictment.

As you are aware, New York has adopted Rule of Professional Conduct 3.8, entitled "Special Responsibilities of Prosecutors and Other Government Lawyers," which provides that a prosecutor "shall make timely disclosure to [the defense] of evidence or information known to the prosecutor or other government lawyer that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the sentence" Rule 3.8(b). The Supreme Court has recognized that Rule 3.8 imposes a higher standard on prosecutors than the standards mandating disclosure of exculpatory evidence under *Brady*. See Kyles, 514 U.S. at 437 ("[Brady] requires less of the prosecution than the ABA Standards for Criminal Justice, which call generally for prosecutorial disclosures of any evidence tending to exculpate or mitigate."); ABA Standards for Criminal Justice, Prosecution Function and Defense Function 3-3.11(a) (3d ed. 1993) ("A prosecutor should not intentionally fail to make timely disclosure to the defense, at the earliest feasible opportunity, of the existence of all evidence or information which tends to negate the guilt of the accused or mitigate the offense charged or which would tend to reduce the punishment of the accused"); ABA Model Rule of Professional Conduct 3.8(d) (1984) ("The prosecutor in a criminal case shall . . . make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense").

We contend that the foregoing categories of information constitute *Brady* and Rule 3.8(b) material, and that disclosure should take place immediately. Sadr further requests that the



government identify with particularity and provide copies of all materials that qualify as *Brady* and Rule 3.8 material, as described above. Please advise us promptly whether the government will be producing *Brady* material immediately even if it is contained in what might otherwise be considered as *Jencks* material, or whether you take the position that you are not obligated to produce such material at this time.

We also request the underlying source material for any *Brady* and Rule 3.8(d) information, as opposed to any summary letter or paraphrased description of the information. Please advise us promptly whether the government will not be producing underlying source material.

For purposes of the *Brady* doctrine, "the format of the information does not determine whether it is discoverable." U.S. Attorneys' Manual § 9-5.002.B.5 (2018). For example, material exculpatory information that is provided "during a conversation with an agent or a witness is no less discoverable than if that same information were contained in an email." *Id.* We therefore request that all such information be memorialized and produced to Sadr.

V. Purportedly Privileged Material

Sadr specifically requests that the government produce all documents or information (in whatever form) produced to the government—or over which the government otherwise has custody, control, or possession—that are responsive to Sadr's discovery and *Brady/Giglio* requests contained herein or that the government would otherwise be legally required to produce, over which any individual or entity has asserted the attorney-client privilege and/or the attorney work product doctrine. This request applies to all such documents produced pursuant to (a) a non-waiver agreement between any individual or entity and the government, (b) a court order pursuant to Fed. R. Evid. 502, or (c) a court order concluding that the documents are covered by the crime-fraud exception to the attorney-client privilege.

Sadr also requests that you identify any person or entity that has asserted any attorney-client privilege, work product privilege, common interest privilege, or any other privilege as the basis for withholding or not producing, in whole or in part, any documents to the government or the grand jury during the investigation. Sadr further requests that you provide all documents (including all privilege logs) with respect to the assertion of or challenge to any such claimed privileges. This request specifically encompasses all pleadings, court orders, correspondence, and other material related to any grand jury litigation by the government in which it challenged any assertion of any privilege.

VI. Criminal Records

Pursuant to Rule 16(a)(1)(D) of the Federal Rules of Criminal Procedure, Sadr requests copies of his prior criminal record, if any.



VII. Jencks Material

Pursuant to the Jencks Act, 18 U.S.C. § 3500, and Rule 26.2 of the Federal Rules of Criminal Procedure, Sadr requests that the government provide a list of the names and addresses of all witnesses that the government intends to call in its case-in-chief and all statements of those witnesses in the possession, custody, or control of the government or any other government entity, including, but not limited to, notes of interviews, FBI 302s, or other summaries prepared by government attorneys or agents, and grand jury transcripts and any other witness statements. We request that the government begin providing this material as soon as possible, or in any event no later than ninety (90) days prior to the start of trial.

VIII. Scientific Evidence

Pursuant to Rule 16(a)(1)(F) of the Federal Rules of Criminal Procedure, Sadr requests documentation relating to all requests for, and the results of, physical or mental examinations, scientific tests, or experiments that were conducted in connection with the investigation of the charges contained in the indictment. This includes, but is not limited to:

- a. all forensic examinations of any computer hard drive, handheld cellular telephone or mobile device that Sadr possessed or to which Sadr had access;
- b. all handwriting exemplars, handwriting samples, handwriting or document analyses, and all documents examined or used in or related to such analyses;
- c. all fingerprint and palm print exemplars, fingerprint samples, comparisons, and opinions of fingerprint experts, and all documents examined or used in connection with, or that relate to, those opinions; and
- d. all polygraph examinations, psychological stress examinations, hypnotic procedures, or any other scientific procedures devised to determine whether a subject is telling the truth, or to refresh a witness' memory, and all documents that refer or relate to such examinations.

IX. Other Crimes Evidence

Pursuant to the Fifth and Sixth Amendments to the United States Constitution and Rules 403 and 404(b)(2) of the Federal Rules of Evidence, Sadr requests that the government disclose all evidence of similar crimes, wrongs, or acts, allegedly committed by Sadr (or any person alleged to have been acting pursuant to his instructions), upon which the government intends to rely on at trial.



X. Suppression Issues

- 1. As a predicate to potential motions pursuant to Rule 12(b) of the Federal Rules Of Criminal Procedure, *see* Rule 12(b)(4)(B), Sadr requests that he be informed:
 - a. Whether the government intends to offer into evidence any statement made by Sadr or any family member, and the substance of any such statement;
 - b. Whether any evidence in the government's possession, custody, or control was obtained by a search and seizure conducted by the government, and a description of such evidence;
 - c. Whether any evidence in the government's possession, custody, or control was obtained through electronic or mechanical surveillance, including without limitation, wiretaps, body wires, pen registers, and/or surveillance of telephone calls, and a description of such evidence;
 - d. Whether any evidence in the government's possession, custody, or control was obtained through the use of a beeper or other tracking device, and a description of such evidence;
 - e. In connection with any tape recording, wiretaps, or other surveillance of the defendant during the investigation of the allegations of the indictment or any related allegations, Sadr seeks:
 - i. The names and addresses of all such persons whose personal or business telephones the government tapped or monitored, or whose conversations or actions the government monitored by other means without the person's knowledge;
 - ii. Transcripts or other records of the statements or conversations monitored;
 - iii. The original recorded tapes created during such surveillance;
 - iv. The procedures used to conduct such surveillance; and
 - v. The authority under which such surveillance was conducted.
 - f. Whether any evidence in the government's possession, custody, or control was obtained through a mail cover and/or trash cover and a description of such evidence; and
 - g. The identities of any informant or undercover agent employed by the government during its investigation of the charges of the indictment.



- 2. Sadr requests that the prosecution disclose whether it intends to offer in its case-in-chief, as a statement by the defendant, any of the following, and that it provide the substance of any such statement:
 - a. Any statement as to which the defendant allegedly manifested his adoption or belief in its truth. See Fed. R. Evid. 801(d)(2)(B).
 - b. Any statement made by another which was purportedly authorized by the defendant. *See* Fed. R. Evid. 801(d)(2)(C).
 - c. Any statement made by an agent or servant of the defendant concerning a matter within the scope of his agency or employment made during the existence of such a relationship. *See* Fed. R. Evid. 801(d)(2)(D).
 - d. Any statement made by an alleged co-conspirator of the defendant during the course and in furtherance of any alleged conspiracy. *See* Fed. R. Evid. 801(d)(2)(E).

XI. Hearsay

Sadr requests notice of any hearsay statement that the government plans to offer at trial under Federal Rule of Evidence 807, including its particulars, the declarant's name and address, and other information giving Sadr a fair opportunity to meet the statement. Fed. R. Evid. 807(b).

XII. Charts and Summaries

Pursuant to Fed. R. Evid. 1006, Sadr requests that he be advised whether the government will seek to offer any chart, summary, or calculation in evidence and, if so, (1) that all such charts, summaries, and calculations be produced, and (2) that all writings, recordings, or other information on which such charts, summaries, or calculations are based be made available for inspection and copying.

XIII. Electronically Stored Information

Sadr requests that the government comply with the "Recommendations for Electronically Stored Information (ESI) Discovery Production in Federal Criminal Cases" issued by the Department of Justice and Administrative Office of the U.S. Courts Joint Working Group on Electronic Technology in the Criminal Justice System in February 2012. To that end, Sadr requests the ability to "meet and confer" with the government as needed to discuss the nature, volume, and mechanics of the government's production of ESI discovery. Among other things, Sadr makes the following requests:

1. The government should produce ESI received from third parties in the format it was received. However, if the government has further processed ESI received from third parties, such as by adding load files, converting native files to TIFF images, extracting metadata or other coding, or making electronic files



searchable, the government should produce such enhanced ESI in discovery to save Sadr the expense of replicating this work. Sadr does not seek any government attorney work product by this request.

- 2. The government should produce a table of contents describing the general categories of information available as ESI discovery in order to expedite Sadr's review of discovery and avoid discovery disputes, unnecessary expense, and undue delay. Further, the government should produce the cover letters that accompanied and described the third party productions of ESI and other documents to facilitate Sadr's review.
- 3. For all ESI produced from a seized, searched, or subpoenaed third-party digital device (e.g., computer, hard drive, thumb drive, CD, DVD, cell phone, Blackberry, iPhone, Android, smart phone, smart watch, or personal digital assistant), the government should identify the digital device that held the ESI, identify the device's owner or custodian, and identify the location where the device was seized, searched, or from where it was produced.
- 4. The government should produce any materials received in paper form in converted digital files that can be viewed and searched. These materials should be produced in multi-page TIFF and OCR format where each document is one file that may have multiple pages. Alternatively, a less preferable option would be production in multi-page, searchable PDF format. Under no circumstances should paper materials be converted into single-page TIFF images without document breaks.
- 5. All production of ESI should maintain parent-child relationships between documents, such as where an email (the parent document) has attachments (the child documents).

XIV. Bill of Particulars

We also adopt Arnold & Porter's August 23, 2018 letter requesting a bill of particulars regarding the allegations in the indictment. We need specification of those allegations in the indictment to permit Sadr to prepare to defend the charges against him. Please advise us whether the government will provide the requested information so that we can determine whether it will be necessary to move for a bill of particulars under Federal Rule of Criminal Procedure 7(f).

September 25, 2018 Page 13



Please let us know promptly whether there are any requests set forth in this letter with which you decline to comply. We are available to discuss any of the foregoing requests at your convenience. We reserve the right to supplement these requests as we continue to review the discovery material and prepare for trial. Thank you for your consideration.

Sincerely,

Brian M. Heberlig

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 29

Exhibit 29. March 8, 2020 Text Messages With Co-Chief Crowley Beginning At Approximately 11:32 p.m.

Bove	It's like she has no role in any of this
Crowley	I'm going to respond to her
Crowley	I'm so mad
Bove	It's horrible wtf is wrong with her
Bove	I get she's stressed too but this stuff is trickling in and they aren't
	telling us
Bove	As in telling us the whole story
Crowley	That is such a fucking bitchy email
Bove	Yes I'm blacking ou[t] looking [a]t it
Crowley	This is now the third time we've learned a material fact about how
	this was turned over from Nathan or the defense
Bove	True story

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 30

Bove, Emil (USANYS)

From: Crowley, Shawn (USANYS) **Sent:** Sunday, March 8, 2020 11:35 PM

To: Kim, Jane (USANYS) 4

Cc: Bove, Emil (USANYS); Krouse, Michael (USANYS)

Subject: Re: Draft

Did we (it doesn't matter who) respond to their last email at 1:30? Can you guys please forward us all correspondence relating to this document?

On Mar 8, 2020, at 11:30 PM, Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov> wrote:

Their second response. Well, I'm glad Stephanie asked me to send the emails so this doesn't stress her more.

From: Bove, Emil (USANYS) <EBove@usa.doj.gov>

Sent: Sunday, March 8, 2020 11:28 PM

To: Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov>

Cc: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>; Krouse, Michael (USANYS) < MKrouse@usa.doj.gov>

Subject: Re: Draft

We're going to smash these guys.

On Mar 8, 2020, at 11:23 PM, Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov> wrote:

Thank you. We'll leave you guys alone tonight unless you need us. Hang in there—we'll get through this just fine. We're excited for your summations

On Mar 8, 2020, at 11:15 PM, Kim, Jane (USANYS) 4 <JKim4@usa.doj.gov> wrote:

Minus Stephanie (don't want to stress her out/make her feel more sick).

From: Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov>

Sent: Sunday, March 8, 2020 11:03 PM

To: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>

Cc: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov>; Bove, Emil

(USANYS) < EBove@usa.doj.gov >; Lake, Stephanie (USANYS)

<<u>SLake@usa.doj.gov</u>> **Subject:** Re: Draft

Thanks guys. Can you forward along any reply? Thank you

On Mar 8, 2020, at 9:55 PM, Kim, Jane (USANYS) 4 <JKim4@usa.doj.gov> wrote:

And really sorry for the quick turnaround – the order said we had to file by 10.

From: Krouse, Michael (USANYS)

<MKrouse@usa.doj.gov>

Sent: Sunday, March 8, 2020 9:50 PM

To: Crowley, Shawn (USANYS)

<SCrowley@usa.doj.gov>; Bove, Emil (USANYS)

<EBove@usa.doj.gov>

Cc: Lake, Stephanie (USANYS) < SLake@usa.doj.gov">SLake@usa.doj.gov;

Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>

Subject: Draft

Not sure Stephanie sent this to you.

From: Lake, Stephanie (USANYS) < <u>SLake@usa.doj.gov</u>>

Sent: Sunday, March 8, 2020 9:31 PM

To: Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>>; Krouse, Michael (USANYS) < <u>MKrouse@usa.doj.gov</u>>; Lynch, Garrett < <u>LynchG@dany.nyc.gov</u>>; Lynch, Garrett (USANYS) [Contractor] < <u>GLynch@usa.doj.gov</u>>

Subject: RE: Proofing and then I'll file these objections

Here's a shitty draft.

From: Kim, Jane (USANYS) 4 < < !Kim4@usa.doj.gov >

Sent: Sunday, March 08, 2020 9:15 PM

To: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">MKrouse@usa.doj.gov; Lynch, Garrett < Lynch, Garrett (USANYS) (SLake@usa.doj.gov">Lynch, Garrett (USANYS) (Contractor) < GLynch@usa.doj.gov>

Subject: Proofing and then I'll file these objections

In 10 minutes unless anyone has objections.

Jane Kim
Assistant United States Attorney
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

Phone: (212) 637-2038 Email: jane.kim@usdoj.gov

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 55 of 296

<[279] Def resp re brady.pdf> <[279-1] Def resp re brady.pdf>

<[280] Def resp re brady.pdf> <[280-1] Def resp re brady.pdf>

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 31

Bove, Emil (USANYS)

From: Kim, Jane (USANYS) 4

Sent: Sunday, March 8, 2020 11:36 PM

To: Bove, Emil (USANYS)

Crowley, Shawn (USANYS); Krouse, Michael (USANYS)

Subject: Re: Draft

We spoke to them by phone at 2:30 and walked through each category of their questions. I think this is it but will double check.

On Mar 8, 2020, at 11:27 PM, Bove, Emil (USANYS) < EBove@usa.doj.gov> wrote:

We're going to smash these guys.

On Mar 8, 2020, at 11:23 PM, Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov> wrote:

Thank you. We'll leave you guys alone tonight unless you need us. Hang in there—we'll get through this just fine. We're excited for your summations

On Mar 8, 2020, at 11:15 PM, Kim, Jane (USANYS) 4 <JKim4@usa.doj.gov> wrote:

Minus Stephanie (don't want to stress her out/make her feel more sick).

From: Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov>

Sent: Sunday, March 8, 2020 11:03 PM

To: Kim, Jane (USANYS) 4 < < <u>JKim4@usa.doj.gov</u>>

Cc: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">MKrouse@usa.doj.gov; Bove, Emil

(USANYS) <EBove@usa.doj.gov>; Lake, Stephanie (USANYS)

<<u>SLake@usa.doj.gov</u>> **Subject:** Re: Draft

Thanks guys. Can you forward along any reply? Thank you

On Mar 8, 2020, at 9:55 PM, Kim, Jane (USANYS) 4 <JKim4@usa.doj.gov> wrote:

And really sorry for the quick turnaround – the order said we had to file by 10.

From: Krouse, Michael (USANYS)

<MKrouse@usa.doj.gov>

Sent: Sunday, March 8, 2020 9:50 PM

To: Crowley, Shawn (USANYS)

<<u>SCrowley@usa.doj.gov</u>>; Bove, Emil (USANYS)

<EBove@usa.doj.gov>

Cc: Lake, Stephanie (USANYS) < SLake@usa.doj.gov">SLake@usa.doj.gov;

Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>

Subject: Draft

Not sure Stephanie sent this to you.

From: Lake, Stephanie (USANYS) < SLake@usa.doj.gov>

Sent: Sunday, March 8, 2020 9:31 PM

To: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>; Krouse, Michael (USANYS) < MKrouse@usa.doj.gov>; Lynch, Garrett < LynchG@dany.nyc.gov>; Lynch, Garrett (USANYS) [Contractor] < GLynch@usa.doj.gov>

Subject: RE: Proofing and then I'll file these objections

Here's a shitty draft.

From: Kim, Jane (USANYS) 4 < < ! Kim4@usa.doj.gov >

Sent: Sunday, March 08, 2020 9:15 PM

To: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">MKrouse@usa.doj.gov; Lynch, Garrett < Lynch, Lynch, Garrett (USANYS) [Contractor] < GLynch@usa.doj.gov>

Subject: Proofing and then I'll file these objections

In 10 minutes unless anyone has objections.

Jane Kim Assistant United States Attorney Southern District of New York One St. Andrew's Plaza New York, New York 10007

Phone: (212) 637-2038 Email: jane.kim@usdoj.gov

<[279] Def resp re brady.pdf> <[279-1] Def resp re brady.pdf> United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 32

 From:
 Bove, Emil (USANYS)

 To:
 Birger, Laura (USANYS)

 Cc:
 Crowley, Shawn (USANYS)

Subject: Sadr

Date: Monday, March 9, 2020 5:43:57 AM

Attachments: <u>127126528741.pdf</u>

ATT00001.htm

18cr224 Order 3.08.20.pdf ATT00002.htm [280-1] Def resp re brady.pdf

ATT00003.htm

Hi Laura,

Attached are additional filings from last night. We held off on distributing these more broadly because we weren't sure how much would come in, and didn't want to send 3-4 update emails. The defense ended up not saying much other than to file the attached correspondence with the team. Our plan is to send an internal update once we hear from AJN at 9 this morning, but we wanted you to have seen these documents before you call the court.

In these attachments, you'll see that AJN asked follow-up questions about our initial letter. We found the answers to the questions to be unfortunate, particularly the fact that the team did not flag for defense counsel that the document was being produced for the first time. We're going to talk to the unit about the disclosure issues here and in Schulte once the dust settles with the trials.

Thanks again for making this call.

Emil

Casea 3-18-18-18-60202224114 JNP 0 SUMBANTE-400-47 Films 1023236220 Fasage-61 of 296

U.S. Department of Justice

United States Attorney Southern District of New York

The Silvio J. Mollo Building One Saint Andrew's Plaza New York, New York 10007

March 8, 2020

FILED BY ECF

The Honorable Alison J. Nathan United States District Judge Southern District of New York United States Courthouse 40 Foley Square, Courtroom 1306 New York, New York 10007

Re: United States v. Ali Sadr Hashemi Nejad, 18 Cr. 224 (AJN)

Dear Judge Nathan:

The Court writes in response to the Court's order from 9:00 this evening. The Government apologizes for the lack of clarity in its prior email.

The Government found GX 411 in its emails on Friday night, looked at the Bank-1 subpoena production, and did not find it. The members of the team discussed the document the next morning and confirmed that it likely had not been produced to the defense previously. The Government promptly had a paralegal mark it as an exhibit and produced it to the defense along with other exhibits and 3500 materials. The Government made clear that GX 411 was a newly marked exhibit and that we intended to offer it, and asked the defense if they would stipulate to authenticity. Defense counsel responded shortly after the Government provided GX 411 and asked how long the Government had GX 411, and why they had not previously received it. The Government responded and explained that we had been aware of the letter since mid-January, and that, at the time, the Government had mistakenly believed it was part of the discovery in the case.

When SAUSA Lynch sent what is now GX 411 to the AUSAs in the case in January, the AUSAs assumed that this was a document that came from this case (specifically, the subpoena to Bank-1), and that it was therefore a document that had been previously produced to the defense as part of the Rule 16 discovery. This was an incorrect assumption. The document in fact was

Casea 4:18:18-6020224114 JND ODUTOGINTE 400-47 Films to 02:1/2012 07:00 Films to 02:1/2012 07:1/2012 07:00 Films to 02:1/2012 07:1/2012

The Honorable Alison J. Nathan, U.S.D.J. March 8, 2020 Page 2

obtained in an unrelated DANY investigation and was not provided to this Office before January 2020.

Respectfully submitted,

GEOFFREY S. BERMAN United States Attorney

By: _____/s/

Jane Kim / Michael Krouse / Stephanie Lake Assistant United States Attorneys Garrett Lynch Special Assistant United States Attorney (212) 637-2038 / 2279 / 1066

cc: Defense Counsel (by ECF)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

United States of America,

-v-

Ali Sadr Hashemi Nejad,

Defendants.

18-cr-224 (AJN) ORDER

ALISON J. NATHAN, District Judge:

In the letter filed this evening by the Government, Dkt. No. 275, the Government states that "It was only in the context of this process that the Government realized that GX 411 was not part of Bank-1's subpoena production, which had been provided to the defense in discovery."

The Court requires further explanation. Specifically, it is unclear from this sentence if the Government realized GX 411 had not been previously disclosed before or after the Government turned it over to the defense yesterday. Nor does this sentence indicate if, upon learning of the late disclosure, the Government informed defense counsel or not. The Government shall explain precisely when and how it realized that the document had erroneously been withheld and when, if at all, upon learning of the failure to disclose this was communicated to the defense.

Furthermore, the previously filed letter does not offer an explanation for how it came to be that GX 411 was not (though should have been) provided to the defense as part of Bank-1's subpoena production.

The Government is ordered to address these points by letter to be filed no later than 10 p.m. this evening. The defense may reply to the Government's letters by 11 p.m.

SO ORDERED.

Dated: March 8, 2020

New York, New York

ALISON I NATI

United States District Judge

3/8/20

Exhibit B

From: Silverman, Nicholas

Sent: Sunday, March 8, 2020 1:36 PM

To: Kim, Jane (USANYS) 4; Heberlig, Brian; Lake, Stephanie (USANYS); Weingarten, Reid

Cc: Krouse, Michael (USANYS); Lynch, Garrett (USANYS) [Contractor]; Milione, Shawn (USANYS)

[Contractor]

Subject: RE: U.S. v. Sadr

Attachments: 092-1 2019-02-25 Pretrial Mem 6 - Exhibit A-c2.pdf

Counsel:

- (1) Are there any other documents in the government's possession that have not been produced?
- (2) Is there any other *Brady* information in the government's possession that has not been produced?
- (3) Is there any information in the government's possession, custody, or control showing OFAC's response to this letter? This is subject to production under *Giglio* and/or *Napue* because it would at a minimum undermine Ted Kim's testimony (A) that to his knowledge, nothing relating to this matter was investigated by OFAC, (B) that "it matters a lot" if Iranian involvement in a transaction is concealed, and (C) that hiding "Iranian connections ... would make it very difficult for me to do my job."
- (4) As we have said, our requests for *Brady* and *Giglio* are continuing in nature. I have attached our September 2018 letter in case you want a non-exclusive list of examples of the type of information covered by *Brady* and *Giglio* in this case. Obviously, any information contrary to government witness testimony would be another example.
- (5) Regarding the authenticity of GX 411, we stipulate to authenticity.
- (6) GX 704 Please let us know what modifications have been made.
- (7) GX 495A, 495B What is the relevance of Sadr having bank accounts at HSBX from January 2010 through October 2013?
- (8) GX 456 We are reviewing and anticipate stipulating to authenticity.
- (9) GX 705A & 705B We are reviewing.
- (10) GX 2304A Subject to our continuing objection (which we understand to have been overruled), no further objection.

Nicholas P. Silverman

Associate

nsilverman@steptoe.com

Steptoe

+1 202 429 8096 direct

Steptoe & Johnson LLP

+1 617 595 6559 mobile 1330 Connecticut Avenue, NW

+1 202 429 3902 fax Washington, DC 20036

www.steptoe.com

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From: Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov>

Sent: Sunday, March 8, 2020 9:41 AM

To: Heberlig, Brian <BHeberlig@steptoe.com>; Lake, Stephanie (USANYS) <Stephanie.Lake@usdoj.gov>; Weingarten, Reid <RWeingarten@steptoe.com>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) <Michael.Krouse@usdoj.gov>; Lynch, Garrett (USANYS) [Contractor] <Garrett.Lynch@usdoj.gov>; Milione, Shawn (USANYS) [Contractor] <Shawn.Milione@usdoj.gov>

Subject: RE: U.S. v. Sadr

Brian, Reid, and Nick:

As I explained in my last email, when we first saw the document in mid-January, we thought it had been part of Commerzbank's subpoena return and had been produced. We didn't think it would be necessary to use given our other evidence about that payment. Given some of the arguments you made on Friday, we decided that we did want to introduce it at trial.

Again, we don't see this document as exculpatory, as we would like to offer it tomorrow. Can you please let us know your position on an authenticity stipulation for this document and the other bank records we sent yesterday, as well as whether you have any issues with the summary charts?

Thanks, Jane

From: Heberlig, Brian <BHeberlig@steptoe.com>

Sent: Saturday, March 7, 2020 10:09 PM

To: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>; Lake, Stephanie (USANYS) < SLake@usa.doj.gov>; Weingarten, Reid < RWeingarten@steptoe.com>; Silverman, Nicholas < nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) <MKrouse@usa.doj.gov>; Lynch, Garrett (USANYS) [Contractor] <GLynch@usa.doj.gov>;

Milione, Shawn (USANYS) [Contractor] <SMilione@usa.doj.gov>

Subject: RE: U.S. v. Sadr

If you have been aware of the letter since mid-January, why wasn't it on the government's pretrial exhibit list instead of appearing the day before the government rests its case? The exculpatory nature of the exhibit is self-evident.

From: Kim, Jane (USANYS) 4 < <u>Jane.Kim@usdoj.gov</u>>

Sent: Saturday, March 7, 2020 5:36 PM

To: Heberlig, Brian BHeberlig@steptoe.com; Lake, Stephanie (USANYS) Stephanie.Lake@usdoj.gov; Weingarten,

Reid <RWeingarten@steptoe.com>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) < Michael.Krouse@usdoj.gov">Michael.Krouse@usdoj.gov; Lynch, Garrett (USANYS) [Contractor] < Shawn.Milione@usdoj.gov>

Subject: RE: U.S. v. Sadr

Brian,

We do not agree with your characterization of GX 430, 431, 432, or 411 as *Brady*. These are all exhibits the Government has introduced or is seeking to introduce in our case. Perhaps you can explain how it is you think GX 411 is helpful to your case.

In any event, we have been aware of the letter since mid-January. We thought it was part of the Commerzbank subpoena return that was produced in discovery. We now understand that it came from an unrelated DANY investigation, and therefore was not in the Commerzbank subpoena return.

It is not clear to us how this document would have been relevant to the OFAC witness's testimony.

Jane

From: Heberlig, Brian < BHeberlig@steptoe.com>

Sent: Saturday, March 7, 2020 4:57 PM

To: Lake, Stephanie (USANYS) < <u>SLake@usa.doj.gov</u>>; Weingarten, Reid < <u>RWeingarten@steptoe.com</u>>; Silverman, Nicholas < nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">MKrouse@usa.doj.gov; Kim, Jane (USANYS) 4 < MKrouse@usa.doj.gov; Lynch, Garrett (USANYS) [Contractor] < MIIIone@usa.doj.gov; Milione, Shawn (USANYS) [Contractor] < MKim4@usa.doj.gov; Milione, Shawn (USANYS) [Contractor] < MKim4@usa.doj.gov <a h

Subject: RE: U.S. v. Sadr

We request immediate disclosure of (1) where GX411 came from, (2) how long it has been in the government's possession, (3) why we are only receiving it today. This is the second episode—along with GX430, GX431, and GX432—of the government producing fundamentally exculpatory documents mid-trial. In this instance, the document was produced after the government's OFAC witness, who would have been subject to cross-examination on this document. Provide this information by 6 pm or we will see the intervention of the Court.

From: Lake, Stephanie (USANYS) < Stephanie.Lake@usdoj.gov>

Sent: Saturday, March 7, 2020 4:24 PM

To: Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) < Michael.Krouse@usdoj.gov">Michael.Krouse@usdoj.gov; Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov; Lynch, Garrett (USANYS) [Contractor] < Garrett.Lynch@usdoj.gov; Milione, Shawn (USANYS) [Contractor]

<Shawn.Milione@usdoj.gov>

Subject: RE: U.S. v. Sadr

Counsel,

We attempted to send you a number of attachments, which will not go through without encryption. It looks like Steptoe's servers are blocking the encrypted email. Shawn will upload the files to the link he has been using. The descriptions are below.

Stephanie

From: Lake, Stephanie (USANYS)

Sent: Saturday, March 07, 2020 4:04 PM

To: Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Silverman, Nicholas <<u>nsilverman@steptoe.com</u>>

Cc: Krouse, Michael (USANYS) < <u>MKrouse@usa.doj.gov</u>>; Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>>; Lynch, Garrett (USANYS) [Contractor] < <u>GLynch@usa.doj.gov</u>>; Milione, Shawn (USANYS) [Contractor] < <u>SMilione@usa.doj.gov</u>> **Subject:** U.S. v. Sadr

Counsel,

Mr. Dubowitz is still very ill. As a result, we do not intend to call him as a witness in our case-in-chief. It's possible that, depending on the defense case, we will call him as a rebuttal witness.

In addition, we've attached the following documents:

Coase 1188 CD00224ANN Document 429041 Fine document 42904 Page 69 of 296

- Updated GX 2284D there were formatting problems with our version. We think the attached corrects them.
- 3508-08 3500 from today
- GX 411 we intend to offer this on Monday. Let us know if you will stipulate to authenticity.
- GX 456 we intend to offer this on Monday. Let us know if you will stipulate to authenticity.
- GX 495A & B we intend to offer these on Monday (likely in redacted form), although think a stipulation that the defendant had bank accounts at HSBC from January 2010 through October 2013 might be simpler. Let us know how you prefer to proceed.
- GX 704 this is the modified version of the travel chart. Please confirm whether you have any remaining concerns.
- GX 705A & B these are summary charts reflecting the information in GX 2090A. Please confirm whether you have any objections.
- Updated GX 2304A we enlarged some of the cells, as the formatting of the PDFd excel file was cutting off some of the data. The content is the same.
- 3504-10 Peri 3500, which was provided in hard copy yesterday morning.
- 3505-06 Blair 3500, which was provided in hard copy yesterday morning.
- 3513-02 Paralegal 3500 for summary chart (you may already have this)
- 3513-03 Paralegal 3500 for summary chart (you may already have this)

We are still working on one additional summary chart, which we expect to provide later today.

Stephanie Lake Assistant United States Attorney Southern District of New York One Saint Andrew's Plaza New York, NY 10007

Tel: (212) 637-1066

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Brian M. Heberlig 202 429 8134 bheberlig@steptoe.com



1330 Connecticut Avenue, NW Washington, DC 20036-1795 202 429 3000 main www.steptoe.com

September 25, 2018

By Electronic Mail

Andrew DeFilippis
Matthew Laroche
Rebekah Donaleski
Assistant United States Attorneys
Garrett Lynch
Special Assistant United States Attorney
U.S. Attorney's Office for the
Southern District of New York
1 St. Andrew's Plaza
New York, NY 10007

Re: United States v. Ali Sadr Hashemi Nejad, No. 18 Cr. 224 (ALC)

Request for Discovery, Brady Material, and Particulars

Dear Counsel:

On behalf of defendant Ali Sadr Hashemi Nejad, we request that the government provide "open file" discovery in this case, including the prompt production of all of the documents and other evidence it has obtained in its investigation and all grand jury transcripts, FBI 302s, and interview memoranda.

In the event that you elect not to provide "open file" discovery, Sadr respectfully submits this formal request for discovery in this case, pursuant to the Fifth and Sixth Amendments to the United States Constitution; Rules 12, 16, and 26.2 of the Federal Rules of Criminal Procedure; *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and progeny; the Department of Justice's "Guidance for Prosecutors Regarding Criminal Discovery"; and the additional authority set forth below.

We understand that Sadr's prior counsel at Arnold & Porter made earlier discovery requests in this matter, including requests in letters and emails dated: March 21, March 25,

BEIJING BRUSSELS CHICAGO LONDON LOS ANGELES NEW YORK PHOENIX SAN FRANCISCO WASHINGTON

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September 25, 2018 Page 2



March 29, April 3, May 15, July 5, July 10, July 26, August 2, August 23, and September 4, 2018. We adopt those requests and ask that you provide any future responsive material directly to us. Arnold & Porter has provided us with copies of your prior discovery letters and emails and the discovery productions to date, and we do not need you to reproduce them to us. Although some of these discovery requests overlap with prior requests by Arnold & Porter, we submit them to ensure that Sadr has fully protected his rights to discovery and *Brady/Giglio* material in this matter.

Sadr requests that you produce and/or permit him to inspect and copy or photograph the materials specified below. This request encompasses not only documents¹ and information in the possession, custody, or control of, or that have been reviewed by, the U.S. Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation, but also documents and information in the possession, custody, and control of, or that have been reviewed by, the Manhattan District Attorney's Office, and any other federal, state or local agency allied with the prosecution or involved in any way in investigating the activities alleged in the Indictment or related conduct. As used in this letter, the words "government" and "you" include your office and the above-referenced federal, state, or local agencies.

Sadr requests that the government comply with all of its discovery obligations under federal law, including, but not limited to, the following:²

I. Search Warrant Returns

We request clarification of the government's position on the discoverability of the data and documents collected pursuant to search warrants in the investigation. It is our understanding that the government has produced the full and unfiltered email accounts of Sadr collected pursuant to search warrants. Arnold & Porter requested the "terabyte" of unfiltered data and documents from non-Sadr accounts obtained pursuant to search warrants, in an April 3, 2018 letter and an August 2, 2018 email. With respect to that data, it is our understanding that the government has produced only a subset of materials that it has deemed "pertinent." We reiterate Sadr's request for complete, unfiltered data and documents from all accounts obtained by the

¹ The word "documents" includes, but is not limited to, all books, papers, letters, correspondence, reports, memoranda, studies, calendars, appointment books, diaries, notes, messages, e-mail, text messages, instant messages, other computer facilitated or transmitted materials, images, photographs, polaroids, information in any computer database, audio and video tapes, recordings, transcripts, ledgers, printouts, contracts, checks, receipts, and all copies or portions thereof, and any other written, recorded, or memorialized material of any nature whatsoever.

² All of these requests are continuing in nature, requiring supplementation in accordance with Fed. R. Crim. P. 16(c).



government pursuant to search warrants. If you decline to provide these materials, please indicate:

- 1. The search terms and/or other filtering process used by the government to identify the "pertinent" documents from the search warrant returns for the non-Sadr accounts; and
- 2. How the government has satisfied its *Brady* obligations with respect to the purportedly non-pertinent data and documents from the search warrant returns for the non-Sadr accounts.

II. Statements of the Defendant

- 1. Any written or recorded statements made by Sadr within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the government. *See* Fed. R. Crim. P. 16(a)(1)(B)(i). This request includes, without limitation:
 - a. All notes, reports, and memoranda summarizing any statement by Sadr to law enforcement officials at the time of his arrest;
 - b. All transcripts and recordings of conversations in which Sadr was a participant;
 - c. All wire and oral communications made by Sadr that were transmitted to or intercepted by, for or on behalf of any government agent or employee or any agency or entity of the U.S. government;
 - d. All written and recorded statements of witnesses that reflect, relate, or incorporate any statements made by Sadr; and
 - e. All other documents that purport to reflect, relate, or incorporate any statements made by Sadr.
- 2. The portion of any written record containing the substance of any oral statement made by Sadr, whether before or after arrest, in response to interrogation by any person then known to the defendant to be a government agent. *See* Fed. R. Crim. P. 16(a)(1)(B)(ii). This request includes without limitation, all documents, including notes, prepared by any FBI employee or agent that contain the substance of any relevant statement made by Sadr.
- 3. The substance of any other oral statement made by Sadr, whether before or after arrest, in response to interrogation by any person then known by Sadr to be a government agent. See Fed. R. Crim. P. 16(a)(1)(A).



III. Documents and Tangible Objects

- 1. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, that were obtained from or belong to Sadr, or that belonged to Sadr at the time of the alleged offenses, or that belong or belonged to any agent of Sadr or any entity allegedly owned or controlled by Sadr. *See* Fed. R. Crim. P. 16(a)(1)(E)(iii). This request includes all documents as to which the government or any entity assigned Sadr as a custodian, whether hard copy or electronic records.
- 2. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, that the government intends to use at trial in its case-in-chief. See Fed. R. Crim. P. 16(a)(1)(E)(ii). We request that any materials in this category be specifically identified from among the materials produced pursuant to the defendant's other Rule 16 and Brady requests, both to enable counsel to prepare effectively for trial and to afford Sadr an opportunity to move to suppress any evidence the prosecution intends to use in its case-in-chief. See Fed. R. Crim. P. 12(b)(3)(C) and 12(b)(4)(B).
- 3. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, that are material to the preparation of Sadr's defense, *see* Fed. R. Crim. P. 16(a)(l)(E)(i), including, but not limited to, those items set forth in paragraphs III.4 to III.14 below.
- 4. All documents reflecting the alleged specific "international financial transactions" at issue in Count Two of the indictment. Indictment ¶ 19.
- 5. All documents reflecting the alleged "financial transactions" at issue in Counts Three and Four of the indictment. Indictment ¶¶ 23, 26.
- 6. All documents reflecting the alleged false and fraudulent pretenses, representations and promises at issue in Counts Three and Four of the indictment. Indictment ¶¶ 23, 26.
- 7. All documents reflecting the alleged monetary transactions and transfers at issue in Counts Five and Six of the indictment. Indictment ¶ 29, 32.
- 8. All documents relating to Sadr or the conduct alleged in the indictment that were introduced as exhibits before the grand jury. We request that any materials in this category be specifically identified from among the materials produced pursuant to the defendant's other Rule 16 and *Brady* requests.
- 9. All documents relating to Sadr or the conduct alleged in the indictment that were obtained by or for the grand jury or pursuant to any grand jury or trial subpoena. This request includes any documents furnished informally to prosecutors in lieu of formal compliance with a subpoena.



- 10. All documents relating to Sadr or the conduct alleged in the indictment obtained from any witness who testified before the grand jury, or who was interviewed or consulted during the course of the grand jury investigation.
- 11. All documents relating to Sadr or the conduct alleged in the indictment that were obtained by any search or seizure pursuant to a search warrant or otherwise.
- 12. All documents relating to Sadr or the conduct alleged in the indictment obtained from any federal, state or local governmental, regulatory or legislative body or agency.
- 13. All documents relating to press releases or press conferences concerning Sadr or the investigation of the defendant, and all other documents relating to any contacts between the government and representatives of the media concerning Sadr or the investigation of the defendant.
- 14. All documents relating to the reputation of Sadr, including, without limitation, any documents relating to Sadr's reputation for honesty, integrity, or competence.

IV. Brady and Giglio Material

Pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, including *Giglio v. United States*, 405 U.S. 150 (1972), *United States v. Agurs*, 427 U.S. 97 (1976), *United States v. Bagley*, 473 U.S. 667 (1985), *Kyles v. Whitney*, 514 U.S. 419 (1995), and New York Rule of Professional Conduct 3.8, Sadr requests immediate identification and disclosure of all documents and information (in whatever form) that are favorable to the defense or that would tend to exculpate Sadr or mitigate his culpability with respect to the charges in the indictment, that would tend to impeach any potential witness against Sadr, or that are relevant to the issue of sentencing, including but not limited to the following:

- 1. Any document or information indicating or tending to establish that any of the allegations in the indictment are not true.
- 2. Any document or information indicating or tending to establish that any meeting, conversation, use of words, practice, or conduct that is the subject of the indictment or forms the basis of the indictment did not violate government laws, regulations, standards or established business practices.
- 3. Any document or information indicating or tending to establish that Sadr believed that any meeting, conversation, use of words, practice, or conduct that is the subject of the indictment or forms the basis of the indictment did not constitute a crime.
- 4. Any document or information indicating or tending to establish that any other person (including but not limited to the alleged co-conspirators) believed that any meeting, conversation, use of words, practice, or conduct that is the subject of the indictment or forms the basis of the indictment did not constitute a crime.

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September 25, 2018 Page 6



- 5. Any documents or information indicating or tending to establish that Sadr did not instigate, control, authorize, approve, or acquiesce in the practices that are the subject of the indictment.
- 6. Any documents or information indicating or tending to establish that the alleged false or fraudulent pretenses were not false.
- 7. Any documents or information indicating or tending to establish that the alleged false or fraudulent pretenses were not material.
- 8. Any documents or information indicating or tending to establish that a third person was responsible for the financial transactions at issue in any count of the indictment.
- 9. Any document or information indicating or tending to establish that Sadr engaged in any conduct that forms the basis of the indictment in reliance upon advice provided by counsel or accountants.
- 10. Any document or information (in whatever form) that could be used to impeach any potential government witness, or any person whose statements will be introduced pursuant to Fed. R. Evid. 801(d)(2)(C), (D), or (E), including but not limited to:
 - a. Any document or information relating to any conviction, arrest, or criminal record of, and any criminal charge brought against, any potential government witness;
 - b. Any document or information relating to promises, consideration, or inducements made to any potential government witness, whether directly to the witness or indirectly to the witness' attorney, friends, family, employer, business associates, or other culpable or at risk third-party. "Consideration" means anything of value or use, including immunity grants, whether formal or informal, witness fees, transportation or relocation assistance, money, dropped or reduced charges or suggestions of favorable treatment with respect to any federal, state or local criminal, civil, or administrative matter, expectations of downward departures or motions for reduction of sentence, considerations regarding forfeiture of assets, or stays of deportation or other immigration status considerations;
 - c. Any document or information tending to show the bias of a potential government witness, including animosity toward Sadr, animosity toward any group or entity of which Sadr is a member or with which Sadr is affiliated, a relationship with the alleged victim, or known but uncharged criminal conduct that may provide an incentive to curry favor with a prosecutor;
 - d. Any document or information affecting the reliability of a potential government witness's testimony, including known alcohol or substance



- abuse, mental health issues or other issues that could affect the witness's ability to perceive and recall events;
- e. Any document or information relating to any inconsistency in statements given by any potential government witness;
- f. Any document or information relating to any inconsistency between agents' and/or prosecutors' rough notes and FBI 302s or other memoranda of interviews of any potential government witness;
- g. Any document or information bearing adversely on the character or reputation for truthfulness of any potential government witness; and
- h. Each specific instance of conduct from which it could be inferred that any potential government witness is untruthful.
- 11. The date of and participants in each and every interview (including not only interviews conducted by the U.S. Attorney's Office or the Manhattan District Attorney's Office, but also interviews conducted by third parties), debriefing, "queen for a day" session, proffer, deposition, or other statement or description of the alleged facts made by each potential government witness (whether directly or indirectly, such as a proffer made by counsel). In addition, please specify, as to each such witness, the first date on which the witness made any allegation that Sadr engaged in any allegedly unlawful conduct or any conduct alleged in the indictment.

As you are aware, New York has adopted Rule of Professional Conduct 3.8, entitled "Special Responsibilities of Prosecutors and Other Government Lawyers," which provides that a prosecutor "shall make timely disclosure to [the defense] of evidence or information known to the prosecutor or other government lawyer that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the sentence" Rule 3.8(b). The Supreme Court has recognized that Rule 3.8 imposes a higher standard on prosecutors than the standards mandating disclosure of exculpatory evidence under *Brady*. See Kyles, 514 U.S. at 437 ("[Brady] requires less of the prosecution than the ABA Standards for Criminal Justice, which call generally for prosecutorial disclosures of any evidence tending to exculpate or mitigate."); ABA Standards for Criminal Justice, Prosecution Function and Defense Function 3-3.11(a) (3d ed. 1993) ("A prosecutor should not intentionally fail to make timely disclosure to the defense, at the earliest feasible opportunity, of the existence of all evidence or information which tends to negate the guilt of the accused or mitigate the offense charged or which would tend to reduce the punishment of the accused"); ABA Model Rule of Professional Conduct 3.8(d) (1984) ("The prosecutor in a criminal case shall . . . make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense").

We contend that the foregoing categories of information constitute *Brady* and Rule 3.8(b) material, and that disclosure should take place immediately. Sadr further requests that the



government identify with particularity and provide copies of all materials that qualify as *Brady* and Rule 3.8 material, as described above. Please advise us promptly whether the government will be producing *Brady* material immediately even if it is contained in what might otherwise be considered as *Jencks* material, or whether you take the position that you are not obligated to produce such material at this time.

We also request the underlying source material for any *Brady* and Rule 3.8(d) information, as opposed to any summary letter or paraphrased description of the information. Please advise us promptly whether the government will not be producing underlying source material.

For purposes of the *Brady* doctrine, "the format of the information does not determine whether it is discoverable." U.S. Attorneys' Manual § 9-5.002.B.5 (2018). For example, material exculpatory information that is provided "during a conversation with an agent or a witness is no less discoverable than if that same information were contained in an email." *Id.* We therefore request that all such information be memorialized and produced to Sadr.

V. Purportedly Privileged Material

Sadr specifically requests that the government produce all documents or information (in whatever form) produced to the government—or over which the government otherwise has custody, control, or possession—that are responsive to Sadr's discovery and *Brady/Giglio* requests contained herein or that the government would otherwise be legally required to produce, over which any individual or entity has asserted the attorney-client privilege and/or the attorney work product doctrine. This request applies to all such documents produced pursuant to (a) a non-waiver agreement between any individual or entity and the government, (b) a court order pursuant to Fed. R. Evid. 502, or (c) a court order concluding that the documents are covered by the crime-fraud exception to the attorney-client privilege.

Sadr also requests that you identify any person or entity that has asserted any attorney-client privilege, work product privilege, common interest privilege, or any other privilege as the basis for withholding or not producing, in whole or in part, any documents to the government or the grand jury during the investigation. Sadr further requests that you provide all documents (including all privilege logs) with respect to the assertion of or challenge to any such claimed privileges. This request specifically encompasses all pleadings, court orders, correspondence, and other material related to any grand jury litigation by the government in which it challenged any assertion of any privilege.

VI. Criminal Records

Pursuant to Rule 16(a)(1)(D) of the Federal Rules of Criminal Procedure, Sadr requests copies of his prior criminal record, if any.



VII. Jencks Material

Pursuant to the Jencks Act, 18 U.S.C. § 3500, and Rule 26.2 of the Federal Rules of Criminal Procedure, Sadr requests that the government provide a list of the names and addresses of all witnesses that the government intends to call in its case-in-chief and all statements of those witnesses in the possession, custody, or control of the government or any other government entity, including, but not limited to, notes of interviews, FBI 302s, or other summaries prepared by government attorneys or agents, and grand jury transcripts and any other witness statements. We request that the government begin providing this material as soon as possible, or in any event no later than ninety (90) days prior to the start of trial.

VIII. Scientific Evidence

Pursuant to Rule 16(a)(1)(F) of the Federal Rules of Criminal Procedure, Sadr requests documentation relating to all requests for, and the results of, physical or mental examinations, scientific tests, or experiments that were conducted in connection with the investigation of the charges contained in the indictment. This includes, but is not limited to:

- a. all forensic examinations of any computer hard drive, handheld cellular telephone or mobile device that Sadr possessed or to which Sadr had access;
- b. all handwriting exemplars, handwriting samples, handwriting or document analyses, and all documents examined or used in or related to such analyses;
- c. all fingerprint and palm print exemplars, fingerprint samples, comparisons, and opinions of fingerprint experts, and all documents examined or used in connection with, or that relate to, those opinions; and
- d. all polygraph examinations, psychological stress examinations, hypnotic procedures, or any other scientific procedures devised to determine whether a subject is telling the truth, or to refresh a witness' memory, and all documents that refer or relate to such examinations.

IX. Other Crimes Evidence

Pursuant to the Fifth and Sixth Amendments to the United States Constitution and Rules 403 and 404(b)(2) of the Federal Rules of Evidence, Sadr requests that the government disclose all evidence of similar crimes, wrongs, or acts, allegedly committed by Sadr (or any person alleged to have been acting pursuant to his instructions), upon which the government intends to rely on at trial.



X. Suppression Issues

- 1. As a predicate to potential motions pursuant to Rule 12(b) of the Federal Rules Of Criminal Procedure, *see* Rule 12(b)(4)(B), Sadr requests that he be informed:
 - a. Whether the government intends to offer into evidence any statement made by Sadr or any family member, and the substance of any such statement;
 - b. Whether any evidence in the government's possession, custody, or control was obtained by a search and seizure conducted by the government, and a description of such evidence;
 - c. Whether any evidence in the government's possession, custody, or control was obtained through electronic or mechanical surveillance, including without limitation, wiretaps, body wires, pen registers, and/or surveillance of telephone calls, and a description of such evidence;
 - d. Whether any evidence in the government's possession, custody, or control was obtained through the use of a beeper or other tracking device, and a description of such evidence;
 - e. In connection with any tape recording, wiretaps, or other surveillance of the defendant during the investigation of the allegations of the indictment or any related allegations, Sadr seeks:
 - i. The names and addresses of all such persons whose personal or business telephones the government tapped or monitored, or whose conversations or actions the government monitored by other means without the person's knowledge;
 - ii. Transcripts or other records of the statements or conversations monitored;
 - iii. The original recorded tapes created during such surveillance;
 - iv. The procedures used to conduct such surveillance; and
 - v. The authority under which such surveillance was conducted.
 - f. Whether any evidence in the government's possession, custody, or control was obtained through a mail cover and/or trash cover and a description of such evidence; and
 - g. The identities of any informant or undercover agent employed by the government during its investigation of the charges of the indictment.



- 2. Sadr requests that the prosecution disclose whether it intends to offer in its case-in-chief, as a statement by the defendant, any of the following, and that it provide the substance of any such statement:
 - a. Any statement as to which the defendant allegedly manifested his adoption or belief in its truth. See Fed. R. Evid. 801(d)(2)(B).
 - b. Any statement made by another which was purportedly authorized by the defendant. *See* Fed. R. Evid. 801(d)(2)(C).
 - c. Any statement made by an agent or servant of the defendant concerning a matter within the scope of his agency or employment made during the existence of such a relationship. *See* Fed. R. Evid. 801(d)(2)(D).
 - d. Any statement made by an alleged co-conspirator of the defendant during the course and in furtherance of any alleged conspiracy. *See* Fed. R. Evid. 801(d)(2)(E).

XI. Hearsay

Sadr requests notice of any hearsay statement that the government plans to offer at trial under Federal Rule of Evidence 807, including its particulars, the declarant's name and address, and other information giving Sadr a fair opportunity to meet the statement. Fed. R. Evid. 807(b).

XII. Charts and Summaries

Pursuant to Fed. R. Evid. 1006, Sadr requests that he be advised whether the government will seek to offer any chart, summary, or calculation in evidence and, if so, (1) that all such charts, summaries, and calculations be produced, and (2) that all writings, recordings, or other information on which such charts, summaries, or calculations are based be made available for inspection and copying.

XIII. Electronically Stored Information

Sadr requests that the government comply with the "Recommendations for Electronically Stored Information (ESI) Discovery Production in Federal Criminal Cases" issued by the Department of Justice and Administrative Office of the U.S. Courts Joint Working Group on Electronic Technology in the Criminal Justice System in February 2012. To that end, Sadr requests the ability to "meet and confer" with the government as needed to discuss the nature, volume, and mechanics of the government's production of ESI discovery. Among other things, Sadr makes the following requests:

1. The government should produce ESI received from third parties in the format it was received. However, if the government has further processed ESI received from third parties, such as by adding load files, converting native files to TIFF images, extracting metadata or other coding, or making electronic files



searchable, the government should produce such enhanced ESI in discovery to save Sadr the expense of replicating this work. Sadr does not seek any government attorney work product by this request.

- 2. The government should produce a table of contents describing the general categories of information available as ESI discovery in order to expedite Sadr's review of discovery and avoid discovery disputes, unnecessary expense, and undue delay. Further, the government should produce the cover letters that accompanied and described the third party productions of ESI and other documents to facilitate Sadr's review.
- 3. For all ESI produced from a seized, searched, or subpoenaed third-party digital device (e.g., computer, hard drive, thumb drive, CD, DVD, cell phone, Blackberry, iPhone, Android, smart phone, smart watch, or personal digital assistant), the government should identify the digital device that held the ESI, identify the device's owner or custodian, and identify the location where the device was seized, searched, or from where it was produced.
- 4. The government should produce any materials received in paper form in converted digital files that can be viewed and searched. These materials should be produced in multi-page TIFF and OCR format where each document is one file that may have multiple pages. Alternatively, a less preferable option would be production in multi-page, searchable PDF format. Under no circumstances should paper materials be converted into single-page TIFF images without document breaks.
- 5. All production of ESI should maintain parent-child relationships between documents, such as where an email (the parent document) has attachments (the child documents).

XIV. Bill of Particulars

We also adopt Arnold & Porter's August 23, 2018 letter requesting a bill of particulars regarding the allegations in the indictment. We need specification of those allegations in the indictment to permit Sadr to prepare to defend the charges against him. Please advise us whether the government will provide the requested information so that we can determine whether it will be necessary to move for a bill of particulars under Federal Rule of Criminal Procedure 7(f).

September 25, 2018 Page 13



Please let us know promptly whether there are any requests set forth in this letter with which you decline to comply. We are available to discuss any of the foregoing requests at your convenience. We reserve the right to supplement these requests as we continue to review the discovery material and prepare for trial. Thank you for your consideration.

Sincerely,

Brian M. Heberlig

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 33

Bove, Emil (USANYS)

From: Crowley, Shawn (USANYS)
Sent: Monday, March 9, 2020 6:57 AM

To: Birger, Laura (USANYS)
Cc: Bove, Emil (USANYS)
Subject: Fwd: Order in 18cr224

Attachments: 18cr224 Order 3.9.20.pdf; ATT00001.htm

For timing purposes, Judge Nathan issued this order saying we are starting this morning at 8:30 and should be prepared to address a representation we made in an earlier filing.

Begin forwarded message:

From: "Kim, Jane (USANYS) 4" < JKim4@usa.doj.gov>

Date: March 9, 2020 at 5:48:11 AM EDT

To: "Bove, Emil (USANYS)" <EBove@usa.doj.gov>, "Crowley, Shawn (USANYS)" <SCrowley@usa.doj.gov>

Cc: "Krouse, Michael (USANYS)" < MKrouse@usa.doj.gov>

Subject: Fwd: Order in 18cr224

Begin forwarded message:

From: Nathan NYSD Chambers < Nathan NYSD Chambers @nysd.uscourts.gov >

Date: March 9, 2020 at 1:08:53 AM EDT

To: "Kim, Jane (USANYS) 4" < <u>Jane.Kim@usdoj.gov</u>>, "Lake, Stephanie (USANYS)" < <u>Stephanie.Lake@usdoj.gov</u>>, "<u>Bbishop_steptoe.com</u>" < <u>Bbishop@steptoe.com</u>>,

"Fragale, David" <DFragale@steptoe.com>, "Levin, Michelle" <mlevin@steptoe.com>,

"Silverman, Nicholas" < "Neingarten">nsilverman@steptoe.com>, "Weingarten, Reid"

Garrett (USANYS) [Contractor]" < Garrett.Lynch@usdoj.gov >, "Heberlig, Brian"

< <u>BHeberlig@steptoe.com</u> >, "Krouse, Michael (USANYS)" < <u>Michael.Krouse@usdoj.gov</u> >

Subject: RE: Order in 18cr224

Counsel,

Attached please find an Order from Judge Nathan that will appear on the docket today. Please confirm receipt.

Sincerely,

Alyssa O'Gallagher

Law Clerk to the Hon. Alison J. Nathan

From: Nathan NYSD Chambers

Sent: Sunday, March 8, 2020 9:42 PM

To: Kim, Jane (USANYS) 4 < <u>Jane.Kim@usdoj.gov</u>>; Lake, Stephanie (USANYS)

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 85 of 296

<<u>Stephanie.Lake@usdoj.gov</u>>; <u>Bbishop steptoe.com</u> <<u>Bbishop@steptoe.com</u>>; Fragale, David <<u>DFragale@steptoe.com</u>>; Levin, Michelle <<u>mlevin@steptoe.com</u>>; Silverman, Nicholas <<u>nsilverman@steptoe.com</u>>; Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Lynch, Garrett <<u>LynchG@dany.nyc.gov</u>>; Lynch, Garrett (USANYS) [Contractor] <<u>Garrett.Lynch@usdoj.gov</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Krouse, Michael (USANYS) <<u>Michael.Krouse@usdoj.gov</u>>

Subject: RE: Order in 18cr224

Counsel,

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From: Nathan NYSD Chambers

Sent: Sunday, March 8, 2020 9:06 PM

To: 'Kim, Jane (USANYS) 4' < <u>Jane.Kim@usdoj.gov</u>>; 'Lake, Stephanie (USANYS)' < <u>Stephanie.Lake@usdoj.gov</u>>; <u>Bbishop steptoe.com</u> < <u>Bbishop@steptoe.com</u>>; 'Fragale, David' < <u>DFragale@steptoe.com</u>>; 'Levin, Michelle' < <u>mlevin@steptoe.com</u>>; 'Silverman, Nicholas' < <u>nsilverman@steptoe.com</u>>; 'Weingarten, Reid' < <u>RWeingarten@steptoe.com</u>>; 'Lynch, Garrett' < <u>LynchG@dany.nyc.gov</u>>; 'Lynch, Garrett (USANYS) [Contractor]' < <u>Garrett.Lynch@usdoj.gov</u>>; 'Heberlig, Brian' < <u>BHeberlig@steptoe.com</u>>; 'Krouse, Michael (USANYS)' < <u>Michael.Krouse@usdoj.gov</u>> **Subject:** RE: Order in 18cr224

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Law Clerk to the Hon. Alison J. Nathan

From: Nathan NYSD Chambers

Sent: Sunday, March 8, 2020 5:01 PM

To: Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov >; Lake, Stephanie (USANYS) < Stephanie.Lake@usdoj.gov >; Bbishop steptoe.com < Bbishop@steptoe.com >; Fragale, David < DFragale@steptoe.com >; Levin, Michelle < mlevin@steptoe.com >; Silverman, Nicholas < nsilverman@steptoe.com >; Weingarten, Reid < RWeingarten@steptoe.com >; Lynch, Garrett < LynchG@dany.nyc.gov >; Lynch, Garrett (USANYS) [Contractor] < Garrett.Lynch@usdoj.gov >; Heberlig, Brian < BHeberlig@steptoe.com >; Krouse,

Michael (USANYS) < < Michael. Krouse@usdoj.gov >

Subject: RE: Order in 18cr224

Counsel,

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 86 of 296

Attached please find a third Order from Judge Nathan that will appear on the docket on Monday. Please confirm receipt.

Sincerely, Alyssa O'Gallagher Law Clerk to the Hon. Alison J. Nathan

From: Nathan NYSD Chambers

Sent: Sunday, March 8, 2020 4:04 PM

To: 'Kim, Jane (USANYS) 4' < Jane.Kim@usdoj.gov >; 'Lake, Stephanie (USANYS)' < Stephanie.Lake@usdoj.gov >; Bbishop steptoe.com < Bbishop@steptoe.com >; 'Fragale, David' < DFragale@steptoe.com >; 'Levin, Michelle' < mlevin@steptoe.com >; 'Silverman, Nicholas' < nsilverman@steptoe.com >; 'Weingarten, Reid' < RWeingarten@steptoe.com >; 'Lynch, Garrett' < LynchG@dany.nyc.gov >; 'Lynch, Garrett (USANYS) [Contractor]' < Garrett.Lynch@usdoj.gov >; 'Heberlig, Brian' < BHeberlig@steptoe.com >; 'Krouse, Michael (USANYS)' < Michael.Krouse@usdoj.gov >

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Subject: RE: Order in 18cr224

Counsel,

Please confirm receipt of this Order.

Sincerely, Alyssa O'Gallagher Law Clerk to the Hon. Alison J. Nathan

From: Nathan NYSD Chambers

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To: Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov>; Lake, Stephanie (USANYS)

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 87 of 296

<<u>Stephanie.Lake@usdoj.gov</u>>; <u>Bbishop_steptoe.com</u> <<u>Bbishop@steptoe.com</u>>; Fragale, David <<u>DFragale@steptoe.com</u>>; Levin, Michelle <<u>mlevin@steptoe.com</u>>; Silverman, Nicholas <<u>nsilverman@steptoe.com</u>>; Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Lynch, Garrett <<u>LynchG@dany.nyc.gov</u>>; Lynch, Garrett (USANYS) [Contractor] <<u>Garrett.Lynch@usdoj.gov</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Krouse, Michael (USANYS) <<u>Michael.Krouse@usdoj.gov</u>>

Subject: Order in 18cr224

Counsel,

Attached please find an Order from Judge Nathan that will appear on the docket on Monday.

Sincerely, Alyssa O'Gallagher Law Clerk to the Hon. Alison J. Nathan

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

United States of America,

-v-

Ali Sadr Hashemi Nejad,

Defendant.

18-cr-224 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

The parties shall be ready to begin today, March 9, 2020, at 8:30 a.m. The Government shall be prepared to discuss, among other matters, its representation to the Court (in response to the Court's March 8, 2020 Order) that it "made clear" in its March 7 correspondence with Mr. Sadr's counsel "that GX 411 was a newly marked exhibit." *See* Dkt. No. 277.

SO ORDERED.

Dated: March ____9____, 2020

New York, New York

ALISON J. NATHAN United States District Judge United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 34

Exhibit 34. March 9, 2020 Text Messages With Co-Chief Crowley Beginning At Approximately 7:13 a.m.

Crowley	Ugh. These poor guys. This is going to be a bloodbath
Bove	Definitely a blood bath. I have mixed feelings about sympathy. AJN's orders are nuts, especially this last one, and the 45 min response time is impossible to deal with. But they've done some pretty aggressive stuff here over the last few days. I still figure worst case scenario is the instruction, and it's not like the defense has the moral high ground in the jury's eyes given all their theatrics
Crowley	Yeah we lied in that letter

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 35

From: Kim, Jane (USANYS) 4

To: Krouse, Michael (USANYS)

Cc: <u>Crowley, Shawn (USANYS)</u>; <u>Bove, Emil (USANYS)</u>

Subject: Re: Order in 18cr224

Date: Monday, March 9, 2020 7:38:12 AM

I've already stabbed myself.

On Mar 9, 2020, at 7:34 AM, Krouse, Michael (USANYS) < MKrouse@usa.doj.gov > wrote:

I'm ready to fall. I'm here if you'd like to discuss.

Sent from my iPhone

On Mar 9, 2020, at 7:24 AM, Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov> wrote:

Thanks guys. I know you've got this, but I think we need to fall on our sword big time here. We didn't make that clear in the transmittal email and shouldn't have represented that we did. We'll see you soon. It's going to be ok.

On Mar 9, 2020, at 5:48 AM, Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>> wrote:

Begin forwarded message:

From: Nathan NYSD Chambers

<NathanNYSDChambers@nysd.uscourts.gov>
Date: March 9, 2020 at 1:08:53 AM EDT
To: "Kim, Jane (USANYS) 4"

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(USANYS)" <Stephanie.Lake@usdoj.gov>,
"Bbishop_steptoe.com"

<Bbishop@steptoe.com"

<Bbishop@steptoe.com>, "Fragale, David"

<DFragale@steptoe.com>, "Levin,
Michelle" <mlevin@steptoe.com>,
"Silverman, Nicholas"

<nsilverman@steptoe.com>, "Weingarten,
Reid" <RWeingarten@steptoe.com>,
"Lynch, Garrett" <LynchG@dany.nyc.gov>,
"Lynch, Garrett (USANYS) [Contractor]"

<<u>Garrett.Lynch@usdoj.gov</u>>, "Heberlig, Brian" <<u>BHeberlig@steptoe.com</u>>, "Krouse, Michael (USANYS)" <<u>Michael.Krouse@usdoj.gov</u>>

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(USANYS) < < < href="michael.Krouse@usdoj.gov"> Michael.Krouse@usdoj.gov"> < href="michael.Krouse@usdoj.gov"> < href="mic

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Law Clerk to the Hon. Alison J. Nathan

<18cr224 Order 3.9.20.pdf>

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 36

 From:
 Birger, Laura (USANYS)

 To:
 Crowley, Shawn (USANYS)

 Cc:
 Bove, Emil (USANYS)

 Subject:
 Re: Order in 18cr224

Date: Monday, March 9, 2020 8:31:53 AM

Ok. I'd come too but I am still on this stopped train.

On Mar 9, 2020, at 8:30 AM, Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov> wrote:

No problem. I spoke to her. I think she appreciated the heads up, but also made clear that this morning is going to be unpleasant. She asked if we were aware of the disclosure issues. I assured her that we are and have been working with the team on them all weekend. I also said we'd be in court this morning and she said something like "yes I'd hope so." It seems important to her that this has been elevated.

On Mar 9, 2020, at 8:09 AM, Birger, Laura (USANYS) <LBirger@usa.doj.gov> wrote:

Thanks. I'm so sorry.

On Mar 9, 2020, at 8:08 AM, Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov> wrote:

No problem. Will call now

On Mar 9, 2020, at 8:03 AM, Birger, Laura (USANYS) <LBirger@usa.doj.gov> wrote:

I am stuck on a train. This is not a call I want to make from the train, both due to sensitivity and connection problems. At this point, I don't see how I can get to a place from which I can call before an 8:30 appearance. I'm so sorry but can one of you call? Just say you are her supervisor and you wanted the court to know why she isn't

there.

On Mar 9, 2020, at 6:56 AM, Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov> wrote:

For timing purposes, Judge Nathan issued this order saying we are starting this morning at 8:30 and should be prepared to address a representation we made in an earlier filing.

Begin forwarded message:

From: "Kim, Jane (USANYS) 4" <JKim4@usa.doj.gov> Date: March 9, 2020 at 5:48:11 AM EDT To: "Bove, Emil (USANYS)" <EBove@usa.doj.gov>, "Crowley, Shawn (USANYS)" <SCrowley@usa.doj.gov> Cc: "Krouse, Michael (USANYS)" <MKrouse@usa.doj.gov> Subject: Fwd: Order in 18cr224

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From: Nathan

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NYSD
Chambers
<NathanNYSDChambers@nysd.uscourts.gov>
Date:
March
9, 2020
at
1:08:53
AM
EDT
To:
"Kim,
Jane
(USANYS)
< Jane. Kim@usdoj.gov>,
"Lake.
Stephanie
(USANYS)"
<<u>Stephanie.Lake@usdoj.gov</u>>,
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"Heberlig,
Brian"
<<u>BHeberlig@steptoe.com</u>>,
"Krouse,
Michael
(USANYS)"
< Michael. Krouse@usdoj.gov>
Subject:
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RE: Order in 18cr224

Counsel,

Attached

please

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Order

from

Judge

Nathan

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docket

today.

Please

confirm

receipt.

Sincerely,

Alyssa

O'Gallagher

Law

Clerk to

the

Hon.

Alison

J.

Nathan

From:

Nathan

NYSD

Chambers

Sent:

Sunday,

March

8, 2020

9:42

PM

To:

Kim,

Jane

```
(USANYS)
4
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
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Subject:
RE:
Order
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18cr224
Counsel,
Attached
please
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Order
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that
will
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on the
docket
on
Monday.
Please
confirm
receipt.
Sincerely,
Alyssa
O'Gallagher
Law
Clerk to
the
Hon.
Alison
J.
Nathan
From:
Nathan
NYSD
Chambers
Sent:
Sunday,
March
8, 2020
5:01
PM
To:
Kim,
Jane
(USANYS)
4
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
<<u>DFragale@steptoe.com</u>>;
Levin,
```

Michelle

<<u>mlevin@steptoe.com</u>>;

```
Silverman,
Nicholas
<nsilverman@steptoe.com>;
Weingarten,
Reid
<<u>RWeingarten@steptoe.com</u>>;
Lynch,
Garrett
<<u>LynchG@dany.nyc.gov</u>>;
Lynch,
Garrett
(USANYS)
[Contractor]
<<u>Garrett.Lynch@usdoj.gov</u>>;
Heberlig,
Brian
<<u>BHeberlig@steptoe.com</u>>;
Krouse,
Michael
(USANYS)
< Michael. Krouse@usdoj.gov>
Subject:
RE:
Order
in
18cr224
Counsel,
Attached
please
find a
third
Order
from
Judge
Nathan
that
will
appear
on the
docket
on
Monday.
Please
confirm
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receipt.

```
Sincerely,
Alyssa
O'Gallagher
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Clerk to
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Alison
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Chambers
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Sunday,
March
8, 2020
4:04
PM
To:
'Kim,
Jane
(USANYS)
4'
<<u>Jane.Kim@usdoj.gov</u>>;
'Lake,
Stephanie
(USANYS)'
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
'Fragale,
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<<u>DFragale@steptoe.com</u>>;
'Levin,
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<<u>mlevin@steptoe.com</u>>;
'Silverman,
Nicholas'
<nsilverman@steptoe.com>;
'Weingarten,
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<<u>RWeingarten@steptoe.com</u>>;
```

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'Lynch,
Garrett'
<<u>LynchG@dany.nyc.gov</u>>;
'Lynch,
Garrett
(USANYS)
[Contractor]'
<<u>Garrett.Lynch@usdoj.gov</u>>;
'Heberlig,
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18cr224
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Sincerely,
Alyssa
O'Gallagher
Law
Clerk to
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the

Hon.

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Alison
J.
Nathan
From:
Nathan
NYSD
Chambers
Sent:
Sunday,
March
8, 2020
12:48
PM
To:
Kim,
Jane
(USANYS)
4
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
<<u>DFragale@steptoe.com</u>>;
Levin,
Michelle
<<u>mlevin@steptoe.com</u>>;
Silverman,
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<nsilverman@steptoe.com>;
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<<u>RWeingarten@steptoe.com</u>>;
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<<u>LynchG@dany.nyc.gov</u>>;
Lynch,
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(USANYS)
[Contractor]
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<<u>Garrett.Lynch@usdoj.gov</u>>;

```
Heberlig,
Brian
<<u>BHeberlig@steptoe.com</u>>;
Krouse,
Michael
(USANYS)
<<u>Michael.Krouse@usdoj.gov</u>>
Subject:
RE:
Order
in
18cr224
Counsel,
Please
confirm
receipt
of this
Order.
Sincerely,
Alyssa
O'Gallagher
Law
Clerk to
the
Hon.
Alison
J.
Nathan
From:
Nathan
NYSD
Chambers
Sent:
Sunday,
March
8, 2020
12:41
PM
To:
Kim,
Jane
(USANYS)
<<u>Jane.Kim@usdoj.gov</u>>;
```

```
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
<<u>DFragale@steptoe.com</u>>;
Levin,
Michelle
<<u>mlevin@steptoe.com</u>>;
Silverman,
Nicholas
<nsilverman@steptoe.com>;
Weingarten,
Reid
<<u>RWeingarten@steptoe.com</u>>;
Lynch,
Garrett
<<u>LynchG@dany.nyc.gov</u>>;
Lynch,
Garrett
(USANYS)
[Contractor]
<<u>Garrett.Lynch@usdoj.gov</u>>;
Heberlig,
Brian
<<u>BHeberlig@steptoe.com</u>>;
Krouse,
Michael
(USANYS)
<<u>Michael.Krouse@usdoj.gov</u>>
Subject:
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in
18cr224
Counsel,
Attached
please
find an
Order
from
Judge
Nathan
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that

will

appear

on the

docket

on

Monday.

Sincerely,

Alyssa

O'Gallagher

Law

Clerk to

the

Hon.

Alison

J.

Nathan

<18cr224 Order 3.9.20.pdf>

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 37

Exhibit 37. March 9, 2020 Text Messages With Co-Chief Crowley Beginning At Approximately 9:28 a.m.

Bove	I feel like this is going to be a mistrial
Crowley	Yes

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 38

Exhibit 38. March 9, 2020 Text Messages With Co-Chief Crowley and AUSA Krouse Beginning At Approximately 10:10 a.m.

Krouse	Sorry guys.
Crowley	Do not worry about it. You did as well as possible in that situation
Bove	Seriously. Hang in there.
Krouse	Thanks for the support. But that was rough.
Krouse	I guess we need [Andrew DeFilippis], [Rebekah Donaleski],
	[Matthew] Laroche, and [David] Denton to provide a declaration
	on whether or not they asked OFAC if they did anything in this
	case / in response to that letter (and if they ever saw the letter)
Crowley	Yep we are talking to them
Bove	if there's any point the disclosure stuff comes up, pls shoot us a
	text and we'll get over there
Krouse	Yep

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 39

From: <u>Birger, Laura (USANYS)</u>

To: <u>Crowley, Shawn (USANYS)</u>; <u>Strauss, Audrey (USANYS)</u>

Cc:Bove, Emil (USANYS)Subject:RE: Order in 18cr224

Date: Monday, March 9, 2020 9:45:35 AM

Sure.

From: Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov>

Sent: Monday, March 9, 2020 9:44 AM

To: Birger, Laura (USANYS) <LBirger@usa.doj.gov>; Strauss, Audrey (USANYS)

<AStrauss@usa.doj.gov>

Cc: Bove, Emil (USANYS) < EBove@usa.doj.gov>

Subject: Re: Order in 18cr224

We just left court. Are you available to discuss briefly? Thanks.

On Mar 9, 2020, at 8:31 AM, Birger, Laura (USANYS) < LBirger@usa.doj.gov > wrote:

Ok. I'd come too but I am still on this stopped train.

On Mar 9, 2020, at 8:30 AM, Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov> wrote:

No problem. I spoke to her. I think she appreciated the heads up, but also made clear that this morning is going to be unpleasant. She asked if we were aware of the disclosure issues. I assured her that we are and have been working with the team on them all weekend. I also said we'd be in court this morning and she said something like "yes I'd hope so." It seems important to her that this has been elevated.

On Mar 9, 2020, at 8:09 AM, Birger, Laura (USANYS) <\LBirger@usa.doi.gov> wrote:

Thanks. I'm so sorry.

On Mar 9, 2020, at 8:08 AM, Crowley, Shawn (USANYS) <<u>SCrowley@usa.doj.gov</u>> wrote:

No problem. Will call now

On Mar 9, 2020, at 8:03 AM, Birger, Laura (USANYS) <<u>LBirger@usa.doj.gov</u>> wrote:

I am stuck on a train. This is not a call I want to make from the train, both due to sensitivity and connection problems. At this point, I don't see how I can get to a place from which I can call before an 8:30 appearance. I'm so sorry but can one of you call? Just say you are her supervisor and you wanted the court to know why she isn't there.

On Mar 9, 2020, at 6:56 AM, Crowley, Shawn (USANYS) <<u>SCrowley@usa.doj.gov</u>> wrote:

For timing purposes, Judge Nathan issued this order saying we are starting this morning at 8:30 and should be prepared to address a representation we made in an earlier filing.

Begin forwarded message:

From: "Kim, Jane (USANYS) 4" <<u>JKim4@usa.doj.gov</u>> Date: March 9, 2020 at 5:48:11 ΑM EDT To: "Bove, Emil (USANYS)" <<u>EBove@usa.doj.gov</u>>, "Crowley, Shawn (USANYS)" <<u>SCrowley@usa.doj.gov</u>> Cc: "Krouse, Michael (USANYS)" <<u>MKrouse@usa.doj.gov</u>> Subject: Fwd: Order in 18cr224

Begin forwarded message:

From:

Nathan

NYSD

Chambers

<<u>NathanNYSDChambers@nysd.uscourts.gov</u>>

```
Date:
March
9,
2020
at
1:08:53
AM
EDT
To:
"Kim,
Jane
(USANYS)
4"
<<u>Jane.Kim@usdoj.gov</u>>,
"Lake,
Stephanie
(USANYS)"
<<u>Stephanie.Lake@usdoj.gov</u>>,
"Bbishop steptoe.com"
<<u>Bbishop@steptoe.com</u>>,
"Fragale,
David"
<<u>DFragale@steptoe.com</u>>,
"Levin,
Michelle"
<mlevin@steptoe.com>,
"Silverman,
Nicholas"
<nsilverman@steptoe.com>,
"Weingarten,
Reid"
<<u>RWeingarten@steptoe.com</u>>,
"Lynch,
Garrett"
<<u>LynchG@dany.nyc.gov</u>>,
"Lynch,
Garrett
(USANYS)
[Contractor]"
<<u>Garrett.Lynch@usdoj.gov</u>>,
"Heberlig,
Brian"
<<u>BHeberlig@steptoe.com</u>>,
"Krouse,
Michael
```

(USANYS)"

<<u>Michael.Krouse@usdoj.gov</u>>

Subject:

RE:

Order

in

18cr224

Counsel,

Attached

please

find

an

Order

from

Judge

Nathan

that

will

appear

on

the

docket

today.

Please

confirm

receipt.

Sincerely,

Alyssa

O'Gallagher

Law

Clerk

to

the

Hon.

Alison

J.

Nathan

From:

Nathan

NYSD

Chambers

```
Sent:
Sunday,
March
8,
2020
9:42
PM
To:
Kim,
Jane
(USANYS)
4
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
<<u>DFragale@steptoe.com</u>>;
Levin,
Michelle
<<u>mlevin@steptoe.com</u>>;
Silverman,
Nicholas
<nsilverman@steptoe.com>;
Weingarten,
Reid
<<u>RWeingarten@steptoe.com</u>>;
Lynch,
Garrett
<<u>LynchG@dany.nyc.gov</u>>;
Lynch,
Garrett
(USANYS)
[Contractor]
<<u>Garrett.Lynch@usdoj.gov</u>>;
Heberlig,
Brian
<<u>BHeberlig@steptoe.com</u>>;
Krouse,
Michael
(USANYS)
```

<<u>Michael.Krouse@usdoj.gov</u>>

Subject:

RE:

Order

in

18cr224

Counsel,

Attached

please

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another

Order

from

Judge

Nathan

that

will

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the

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on

Monday.

Please

confirm

receipt.

Sincerely,

Alyssa

O'Gallagher

Law

Clerk

to

the

Hon.

Alison

J.

Nathan

From:

Nathan

NYSD

```
Chambers
Sent:
Sunday,
March
8,
2020
9:06
PM
To:
'Kim,
Jane
(USANYS)
4'
<<u>Jane.Kim@usdoj.gov</u>>;
'Lake,
Stephanie
(USANYS)'
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
'Fragale,
David'
<<u>DFragale@steptoe.com</u>>;
'Levin,
Michelle'
<<u>mlevin@steptoe.com</u>>;
'Silverman,
Nicholas'
<nsilverman@steptoe.com>;
'Weingarten,
Reid'
<<u>RWeingarten@steptoe.com</u>>;
'Lynch,
Garrett'
<<u>LynchG@dany.nyc.gov</u>>;
'Lynch,
Garrett
(USANYS)
[Contractor]'
<<u>Garrett.Lynch@usdoj.gov</u>>;
'Heberlig,
Brian'
<<u>BHeberlig@steptoe.com</u>>;
'Krouse,
Michael
```

(USANYS)'

<<u>Michael.Krouse@usdoj.gov</u>>

Subject:

RE:

Order

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18cr224

Counsel,

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Order

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NYSD
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Sent:
Sunday,
March
8,
2020
5:01
PM
To:
Kim,
Jane
(USANYS)
4
<<u>Jane.Kim@usdoj.gov</u>>;
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<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
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Lynch,
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Lynch,
Garrett
(USANYS)
[Contractor]
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<<u>BHeberlig@steptoe.com</u>>;
Krouse,
```

Michael

(USANYS)

<<u>Michael.Krouse@usdoj.gov</u>>

Subject:

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Nathan
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Chambers
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Sunday,
March
8,
2020
4:04
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To:
'Kim,
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<<u>Jane.Kim@usdoj.gov</u>>;
'Lake,
Stephanie
(USANYS)'
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
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'Fragale,
David'
<<u>DFragale@steptoe.com</u>>;
'Levin,
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<<u>mlevin@steptoe.com</u>>;
'Silverman,
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<<u>LynchG@dany.nyc.gov</u>>;
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'Krouse,
Michael
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Sincerely,
Alyssa
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Clerk
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J.
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From:
Nathan
NYSD
Chambers
Sent:
Sunday,
March
8,
2020
12:48
PM
To:
Kim,
Jane
(USANYS)
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
<<u>DFragale@steptoe.com</u>>;
Levin,
Michelle
<<u>mlevin@steptoe.com</u>>;
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Garrett
<<u>LynchG@dany.nyc.gov</u>>;
Lynch,
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(USANYS)
[Contractor]
<<u>Garrett.Lynch@usdoj.gov</u>>;
Heberlig,
Brian
```

<<u>BHeberlig@steptoe.com</u>>; Krouse, Michael (USANYS) <<u>Michael.Krouse@usdoj.gov</u>> Subject: RE: Order in 18cr224 Counsel, Please confirm receipt of this Order. Sincerely, Alyssa O'Gallagher Law Clerk to the Hon. Alison J. Nathan

From:

Nathan

NYSD

Chambers

Sent:

Sunday,

March

8,

2020

12:41

РМ

To:

```
Kim,
Jane
(USANYS)
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
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Krouse,
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<<u>Michael.Krouse@usdoj.gov</u>>
Subject:
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in
18cr224
Counsel,
```

Attached

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Order

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Judge

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Monday.

Sincerely,

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O'Gallagher

Law

Clerk

to

the

Hon.

Alison

J.

Nathan

<18cr224 Order

3.9.20.pdf>

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 40

From: <u>Strauss, Audrey (USANYS)</u>

To: <u>Crowley, Shawn (USANYS)</u>; <u>Birger, Laura (USANYS)</u>

Cc:Bove, Emil (USANYS)Subject:RE: Order in 18cr224

Date: Monday, March 9, 2020 9:49:14 AM

Yes.

From: Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov>

Sent: Monday, March 9, 2020 9:44 AM

To: Birger, Laura (USANYS) <LBirger@usa.doj.gov>; Strauss, Audrey (USANYS)

<AStrauss@usa.doj.gov>

Cc: Bove, Emil (USANYS) < EBove@usa.doj.gov>

Subject: Re: Order in 18cr224

We just left court. Are you available to discuss briefly? Thanks.

On Mar 9, 2020, at 8:31 AM, Birger, Laura (USANYS) < LBirger@usa.doj.gov > wrote:

Ok. I'd come too but I am still on this stopped train.

On Mar 9, 2020, at 8:30 AM, Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov> wrote:

No problem. I spoke to her. I think she appreciated the heads up, but also made clear that this morning is going to be unpleasant. She asked if we were aware of the disclosure issues. I assured her that we are and have been working with the team on them all weekend. I also said we'd be in court this morning and she said something like "yes I'd hope so." It seems important to her that this has been elevated.

On Mar 9, 2020, at 8:09 AM, Birger, Laura (USANYS) <\LBirger@usa.doi.gov> wrote:

Thanks. I'm so sorry.

On Mar 9, 2020, at 8:08 AM, Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov > wrote:

No problem. Will call now

On Mar 9, 2020, at 8:03 AM, Birger, Laura (USANYS) <<u>LBirger@usa.doj.gov</u>> wrote:

I am stuck on a train. This is not a call I want to make from the train, both due to sensitivity and connection problems. At this point, I don't see how I can get to a place from which I can call before an 8:30 appearance. I'm so sorry but can one of you call? Just say you are her supervisor and you wanted the court to know why she isn't there.

On Mar 9, 2020, at 6:56 AM, Crowley, Shawn (USANYS) <<u>SCrowley@usa.doj.gov</u>> wrote:

For timing purposes, Judge Nathan issued this order saying we are starting this morning at 8:30 and should be prepared to address a representation we made in an earlier filing.

Begin forwarded message:

From: "Kim, Jane (USANYS) 4" <<u>JKim4@usa.doj.gov</u>> Date: March 9, 2020 at 5:48:11 ΑM EDT To: "Bove, Emil (USANYS)" <<u>EBove@usa.doj.gov</u>>, "Crowley, Shawn (USANYS)" <<u>SCrowley@usa.doj.gov</u>> Cc: "Krouse, Michael (USANYS)" <<u>MKrouse@usa.doj.gov</u>> Subject: Fwd: Order in 18cr224

Begin forwarded message:

From:

Nathan

NYSD

Chambers

<<u>NathanNYSDChambers@nysd.uscourts.gov</u>>

```
Date:
March
9,
2020
at
1:08:53
AM
EDT
To:
"Kim,
Jane
(USANYS)
4"
<<u>Jane.Kim@usdoj.gov</u>>,
"Lake,
Stephanie
(USANYS)"
<<u>Stephanie.Lake@usdoj.gov</u>>,
"Bbishop steptoe.com"
<<u>Bbishop@steptoe.com</u>>,
"Fragale,
David"
<<u>DFragale@steptoe.com</u>>,
"Levin,
Michelle"
<mlevin@steptoe.com>,
"Silverman,
Nicholas"
<nsilverman@steptoe.com>,
"Weingarten,
Reid"
<<u>RWeingarten@steptoe.com</u>>,
"Lynch,
Garrett"
<<u>LynchG@dany.nyc.gov</u>>,
"Lynch,
Garrett
(USANYS)
[Contractor]"
<<u>Garrett.Lynch@usdoj.gov</u>>,
"Heberlig,
Brian"
<<u>BHeberlig@steptoe.com</u>>,
"Krouse,
Michael
```

(USANYS)"

<<u>Michael.Krouse@usdoj.gov</u>>

Subject:

RE:

Order

in

18cr224

Counsel,

Attached

please

find

an

Order

from

Judge

Nathan

that

will

appear

on

the

docket

today.

Please

confirm

receipt.

Sincerely,

Alyssa

O'Gallagher

Law

Clerk

to

the

Hon.

Alison

J.

Nathan

From:

Nathan

NYSD

Chambers

```
Sent:
Sunday,
March
8,
2020
9:42
PM
To:
Kim,
Jane
(USANYS)
4
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
<<u>DFragale@steptoe.com</u>>;
Levin,
Michelle
<<u>mlevin@steptoe.com</u>>;
Silverman,
Nicholas
<nsilverman@steptoe.com>;
Weingarten,
Reid
<<u>RWeingarten@steptoe.com</u>>;
Lynch,
Garrett
<<u>LynchG@dany.nyc.gov</u>>;
Lynch,
Garrett
(USANYS)
[Contractor]
<<u>Garrett.Lynch@usdoj.gov</u>>;
Heberlig,
Brian
<<u>BHeberlig@steptoe.com</u>>;
Krouse,
Michael
(USANYS)
```

<<u>Michael.Krouse@usdoj.gov</u>>

Subject:

RE:

Order

in

18cr224

Counsel,

Attached

please

find

another

Order

from

Judge

Nathan

that

will

appear

on

the

docket

on

Monday.

Please

confirm

receipt.

Sincerely,

Alyssa

O'Gallagher

Law

Clerk

to

the

Hon.

Alison

J.

Nathan

From:

Nathan

NYSD

```
Chambers
Sent:
Sunday,
March
8,
2020
9:06
PM
To:
'Kim,
Jane
(USANYS)
4'
<<u>Jane.Kim@usdoj.gov</u>>;
'Lake,
Stephanie
(USANYS)'
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
'Fragale,
David'
<<u>DFragale@steptoe.com</u>>;
'Levin,
Michelle'
<<u>mlevin@steptoe.com</u>>;
'Silverman,
Nicholas'
<nsilverman@steptoe.com>;
'Weingarten,
Reid'
<<u>RWeingarten@steptoe.com</u>>;
'Lynch,
Garrett'
<<u>LynchG@dany.nyc.gov</u>>;
'Lynch,
Garrett
(USANYS)
[Contractor]'
<<u>Garrett.Lynch@usdoj.gov</u>>;
'Heberlig,
Brian'
<<u>BHeberlig@steptoe.com</u>>;
'Krouse,
Michael
```

(USANYS)'

<<u>Michael.Krouse@usdoj.gov</u>>

Subject:

RE:

Order

in

18cr224

Counsel,

Attached

please

find

another

Order

from

Judge

Nathan

that

will

appear

on

the

docket

on

Monday.

Please

confirm

receipt.

Sincerely,

Alyssa

O'Gallagher

Law

Clerk

to

the

Hon.

Alison

J.

Nathan

From:

```
NYSD
Chambers
Sent:
Sunday,
March
8,
2020
5:01
PM
To:
Kim,
Jane
(USANYS)
4
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
<<u>DFragale@steptoe.com</u>>;
Levin,
Michelle
<<u>mlevin@steptoe.com</u>>;
Silverman,
Nicholas
<nsilverman@steptoe.com>;
Weingarten,
Reid
<<u>RWeingarten@steptoe.com</u>>;
Lynch,
Garrett
<<u>LynchG@dany.nyc.gov</u>>;
Lynch,
Garrett
(USANYS)
[Contractor]
<<u>Garrett.Lynch@usdoj.gov</u>>;
Heberlig,
Brian
<<u>BHeberlig@steptoe.com</u>>;
Krouse,
```

Michael

(USANYS)

<<u>Michael.Krouse@usdoj.gov</u>>

Subject:

RE:

Order

in

18cr224

Counsel,

Attached

please

find

а

third

Order

from

Judge

Nathan

that

will

appear

on

the

docket

on

Monday.

Please

confirm

receipt.

Sincerely,

Alyssa

O'Gallagher

Law

Clerk

to

the

Hon.

Alison

J.

Nathan

```
From:
Nathan
NYSD
Chambers
Sent:
Sunday,
March
8,
2020
4:04
PM
To:
'Kim,
Jane
(USANYS)
<<u>Jane.Kim@usdoj.gov</u>>;
'Lake,
Stephanie
(USANYS)'
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
'Fragale,
David'
<<u>DFragale@steptoe.com</u>>;
'Levin,
Michelle'
<<u>mlevin@steptoe.com</u>>;
'Silverman,
Nicholas'
<nsilverman@steptoe.com>;
'Weingarten,
Reid'
<<u>RWeingarten@steptoe.com</u>>;
'Lynch,
Garrett'
<<u>LynchG@dany.nyc.gov</u>>;
'Lynch,
Garrett
(USANYS)
[Contractor]'
<<u>Garrett.Lynch@usdoj.gov</u>>;
'Heberlig,
Brian'
```

```
<<u>BHeberlig@steptoe.com</u>>;
'Krouse,
Michael
(USANYS)'
<<u>Michael.Krouse@usdoj.gov</u>>
Subject:
RE:
Order
in
18cr224
Counsel,
Attached
please
find
another
Order
from
Judge
Nathan
that
will
appear
on
the
docket
on
Monday.
Please
confirm
receipt.
Sincerely,
Alyssa
O'Gallagher
Law
Clerk
to
the
Hon.
Alison
```

J.

Nathan

```
From:
Nathan
NYSD
Chambers
Sent:
Sunday,
March
8,
2020
12:48
PM
To:
Kim,
Jane
(USANYS)
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
<<u>DFragale@steptoe.com</u>>;
Levin,
Michelle
<<u>mlevin@steptoe.com</u>>;
Silverman,
Nicholas
<nsilverman@steptoe.com>;
Weingarten,
Reid
<<u>RWeingarten@steptoe.com</u>>;
Lynch,
Garrett
<<u>LynchG@dany.nyc.gov</u>>;
Lynch,
Garrett
(USANYS)
[Contractor]
<<u>Garrett.Lynch@usdoj.gov</u>>;
Heberlig,
Brian
```

<<u>BHeberlig@steptoe.com</u>>; Krouse, Michael (USANYS) <<u>Michael.Krouse@usdoj.gov</u>> Subject: RE: Order in 18cr224 Counsel, Please confirm receipt of this Order. Sincerely, Alyssa O'Gallagher Law Clerk to the Hon. Alison J. Nathan

From:

Nathan

NYSD

Chambers

Sent:

Sunday,

March

8,

2020

12:41

PM

To:

```
Kim,
Jane
(USANYS)
<<u>Jane.Kim@usdoj.gov</u>>;
Lake,
Stephanie
(USANYS)
<<u>Stephanie.Lake@usdoj.gov</u>>;
Bbishop steptoe.com
<<u>Bbishop@steptoe.com</u>>;
Fragale,
David
<<u>DFragale@steptoe.com</u>>;
Levin,
Michelle
<<u>mlevin@steptoe.com</u>>;
Silverman,
Nicholas
<nsilverman@steptoe.com>;
Weingarten,
Reid
<<u>RWeingarten@steptoe.com</u>>;
Lynch,
Garrett
<<u>LynchG@dany.nyc.gov</u>>;
Lynch,
Garrett
(USANYS)
[Contractor]
<<u>Garrett.Lynch@usdoj.gov</u>>;
Heberlig,
Brian
<<u>BHeberlig@steptoe.com</u>>;
Krouse,
Michael
(USANYS)
<<u>Michael.Krouse@usdoj.gov</u>>
Subject:
Order
in
18cr224
Counsel,
```

Attached

please

find

an

Order

from

Judge

Nathan

that

will

appear

on

the

docket

on

Monday.

Sincerely,

Alyssa

O'Gallagher

Law

Clerk

to

the

Hon.

Alison

J.

Nathan

<18cr224 Order

3.9.20.pdf>

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 41

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 155 of 296 · involvement -diligence 18 - dd yr coma of sFAC => desc. Patrial (mails [Obame not energy]

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-9

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 42

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 157 of 296

From: <u>Laroche, Matthew (USANYS)</u>

To: Bove, Emil (USANYS); Crowley, Shawn (USANYS)

Subject: OFAC Emails

Date: Monday, March 9, 2020 10:27:44 AM

Attachments: RE Case.msg.msg

.msg.msg RE Sadr.msg.msg

These are the only three emails I could find re OFAC. The first one is what I mentioned but I can't find any follow-up after that one.

From: <u>Michael.Dondarski@treasury.gov</u>

To: <u>LynchG@dany.nyc.gov</u>

Cc: Laroche, Matthew (USANYS); Ethan.Walpole@treasury.gov; Rosanna.Wells@treasury.gov

Subject: RE: Case

Date: Tuesday, September 26, 2017 4:00:00 PM

Garrett,

Thanks again for speaking last week and for passing along the slide deck. I'm copying Ethan Walpole and Rosie Wells from OFAC Enforcement on this email so they can coordinate with you on next steps or follow-up with any questions they have.

Best, Mike

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Friday, September 22, 2017 3:12 PM

To: Dondarski, Michael

Cc: Laroche, Matthew (USANYS)

Subject: Case Michael,

Thanks for the call yesterday. As always, great to chat with you. Attached is the powerpoint I mentioned which gives a rough sketch of the case, the players, and the evidence. Obviously, it's the tip of the iceberg – we're happy to share more information, records, etc.

Have a great weekend. Who know...maybe you'll be a father the next time we speak!

Garrett A. Lynch

Deputy Bureau Chief

Major Economic Crimes Bureau

New York County District Attorney's Office

(212) 335-4335

lynchg@dany.nyc.gov

This email communication and any files transmitted with it contain privileged and confidential information from the New York County District Attorney's Office and are intended solely for the use of the individuals or entity to whom it has been addressed. If you are not the intended recipient, you are hereby notified that any dissemination or copying of this email is strictly prohibited. If you have received this email in error, please delete it and notify the sender by return email.

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 159 of 296

From: Lynch, Garrett

To: <u>DeFilippis, Andrew (USANYS)</u>; <u>Laroche, Matthew (USANYS)</u>

Date: Thursday, March 28, 2019 12:31:50 PM

FYI – I just spoke to a guy I know who's the director of enforcement at OFAC to run by him the arguments they raise in their first motion about the applicability of the ITSR language (in effect at the time) to the conduct here. Confirmed the thoughts I had – we can chat whenever you guys have a chance.

Garrett A. Lynch
Deputy Bureau Chief
Major Economic Crimes Bureau
New York County District Attorney's Office
(212) 335-4335
lynchg@dany.nyc.gov

This email communication and any files transmitted with it contain privileged and confidential information from the New York County District Attorney's Office and are intended solely for the use of the individuals or entity to whom it has been addressed. If you are not the intended recipient, you are hereby notified that any dissemination or copying of this email is strictly prohibited. If you have received this email in error, please delete it and notify the sender by return email.

From: Denton, David (USANYS)

To: Laroche, Matthew (USANYS); DeFilippis, Andrew (USANYS)
Cc: Kim, Jane (USANYS) 4; Krouse, Michael (USANYS)

Subject: RE: Sadr

Date: Monday, June 24, 2019 9:52:39 AM

Figured that they weren't licensed, we just had an issue come up during Atilla jury deliberations about the proof on the lack of licenses, so it's probably just worth asking OFAC to write us one of those letters, and we can have Lisa Pallucconi or whoever ends up being our OFAC witness offer it as an official record.

From: Laroche, Matthew (USANYS)
Sent: Monday, June 24, 2019 9:49 AM

To: DeFilippis, Andrew (USANYS); Denton, David (USANYS) **Cc:** Kim, Jane (USANYS) 4; Krouse, Michael (USANYS)

Subject: RE: Sadr

Also, if the question is whether the relevant entities ever got licenses, they didn't. But if you're looking for something formal from OFAC on the shared, we don't have it.

From: Laroche, Matthew (USANYS)
Sent: Monday, June 24, 2019 9:40 AM

To: DeFilippis, Andrew (USANYS) < <u>ADeFilippis@usa.doj.gov</u>>; Denton, David (USANYS)

<DDenton@usa.doj.gov>

Cc: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>; Krouse, Michael (USANYS) < MKrouse@usa.doj.gov>

Subject: RE: Sadr

We had a few calls with Michael Dondarski at OFAC who is familiar with the case but I don't remember running license checks.

From: DeFilippis, Andrew (USANYS) < <u>ADeFilippis@usa.doj.gov</u>>

Sent: Monday, June 24, 2019 9:37 AM

To: Denton, David (USANYS) < DDenton@usa.doj.gov>

Cc: Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>>; Krouse, Michael (USANYS)

<<u>MKrouse@usa.doj.gov</u>>; Laroche, Matthew (USANYS) <<u>MLaroche@usa.doj.gov</u>>

Subject: RE: Sadr

I don't remember if we did...copying in Laroche. Matt, did we run any OFAC license checks in Sadr?

From: Denton, David (USANYS) < DDenton@usa.doj.gov >

Sent: Monday, June 24, 2019 9:31 AM

To: DeFilippis, Andrew (USANYS) < <u>ADeFilippis@usa.doj.gov</u>>

Cc: Kim, Jane (USANYS) 4 < <u>IKim4@usa.doj.gov</u>; Krouse, Michael (USANYS) < MKrouse@usa.doj.gov>

Subject: Sadr

Flip,

Did you guys have OFAC run a formal license check on the various individuals/entities here? Didn't see one on the shared, but wasn't sure if I was just looking in the wrong place.

Thanks, Dave

David W. Denton, Jr. Assistant U.S. Attorney U.S. Attorney's Office Southern District of New York (212) 637-2744

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 43

From: Denton, David (USANYS)

To: Bove, Emil (USANYS); Crowley, Shawn (USANYS)

Subject: OFAC Comms re Sadr

Date: Monday, March 9, 2020 10:30:36 AM

Attachments: RE OFAC Witness Help - SDNY Nejad Prosecution.msg.msg

Resume.msg.msg

RE OFAC Witness Help - SDNY Nejad Prosecution.msg.msg
RE OFAC Witness Help - SDNY Nejad Prosecution.msg.msg
RE OFAC Witness Help - SDNY Nejad Prosecution.msg.msg
FW OFAC Witness Help - SDNY Nejad Prosecution.msg.msg
RE OFAC Witness Help - SDNY Nejad Prosecution.msg.msg
RE OFAC Witness Help - SDNY Nejad Prosecution.msg.msg
RE OFAC Witness Help - SDNY Nejad Prosecution.msg.msg
OFAC Witness Help - SDNY Nejad Prosecution.msg.msg
OFAC Witness Help - SDNY Nejad Prosecution.msg.msg

RE OFAC Witness Help.msg.msg

OFAC.msg.msg

Attached are my emails with OFAC, which are all ministerial related to getting a formal license check and trial witness. I had one call with Frank Swerda and Maria van Wagenberg just to explain what we were looking for in terms of testimony, and referencing the testimony Lisa Pallucconi gave in the Atilla trial as an example, without discussing particulars of entities or regs, which is reflected in a short summary email to the team also attached. I left the team at the end of July before a license check request was sent, so I don't know exactly what was asked for there.

David W. Denton, Jr. Assistant U.S. Attorney U.S. Attorney's Office Southern District of New York (212) 637-2744 From: Samantha.Sultoon@treasury.gov
To: Denton, David (USANYS)

Cc: MariaHelene.VanWagenberg@treasury.gov

Subject: RE: OFAC Witness Help - SDNY Nejad Prosecution

Date: Friday, January 3, 2020 2:58:41 PM

David -

My colleagues had been in touch with you regarding your request to have an OFAC witness testify on various regulations in the prosecution of Hashemi Nejad. I understand that the trial has been delayed. As we have had some personnel changes, I wanted to check with you regarding the schedule for the trial before reassigning staff to assist. Also, can you kindly confirm the anticipated location of the trial?

Thank you,

Samantha

Samantha Sultoon

Section Chief, Enforcement

Office of Foreign Assets Control (OFAC)

U.S. Department of the Treasury

Samantha.Sultoon@treasury.gov

From: Denton, David (USANYS) < <u>David.Denton@usdoj.gov</u>>

Sent: Thursday, July 18, 2019 10:18 AM

To: Malec, Julie < <u>Julie.Malec@treasury.gov</u>>

<MariaHelene.VanWagenberg@treasury.gov>

Subject: Re: OFAC Witness Help - SDNY Nejad Prosecution

Sure. The trial is scheduled to start October 21, and while I can't be that precise, I think it's safe to say that the OFAC witness will be on in the first week. Happy to jump on a call today or tomorrow if it would help to just explain a little more of the lay of the land.

David W. Denton, Jr.
Assistant U.S. Attorney
Southern District of New York
(212) 637-2744

On Jul 18, 2019, at 10:15 AM, "Julie.Malec@treasury.gov" < Julie.Malec@treasury.gov > wrote:

David

Do you have any rough estimate of a timeline for testimony on this matter?

Julie M. Malec

Acting Assistant Director for Enforcement

Office of Foreign Assets Control

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

202.622.1984

<u>Julie.Malec@treasury.gov</u> (unclassified)

malecj@tsdn.treasury.sgov.gov (SIPR) maleci@treasury.ic.gov (JWICS)

From: Van Wagenberg, Maria-Helene < MariaHelene. Van Wagenberg@treasurv.gov>

Sent: Wednesday, July 17, 2019 3:12 PM

To: Malec, Julie < Julie.Malec@treasury.gov >; Miremadi, Kaveh < Kaveh.Miremadi@treasury.gov >;

Wells, Rosanna < Rosanna. Wells@treasury.gov>

Cc: < David.Denton@usdoj.gov>

Subject: OFAC Witness Help - SDNY Nejad Prosecution

Hi Julie, Kaveh, and Rosie,

I'm putting you in touch with Dave Denton, an AUSA in the SDNY (copied here), who has asked about a potential OFAC witness for their prosecution of Ali Sadr Hashemi Nejad for sanctions violations: https://www.justice.gov/opa/pr/iranian-national-arrested-scheme-evade-us-economic-sanctions-illicitly-sending-more-115. I think SDNY will be asking ENF to run a license check on the various entities and people involved (SDNY had previously been in touch with Mike Dondarski and confirmed that there were no licenses in place, but still needs to obtain a formal license check), as well as for an OFAC witness to testify on the various regulations. I'll let Dave follow up with you on the specifics, but please feel free to keep us looped in to the extent our legal authorities are involved. Thanks all! Best regards,

Maria

Maria H. van Wagenberg Attorney-Advisor Office of the Chief Counsel (Foreign Assets Control) U.S. Department of the Treasury 1500 Pennsylvania Avenue, N.W. Washington, DC 20220

Email: mariahelene.vanwagenberg@treasury.gov

Tel: 202-622-2070

This message is from an attorney and may contain information that is legally privileged. If you are not the intended recipient, please immediately advise the sender by reply e-mail that this message has been inadvertently transmitted to you and delete this e-mail from your system. Thank you for your cooperation.

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 166 of 296

From: Frank.Swerda@treasury.gov
To: Denton, David (USANYS)

Subject: Resume

Date: Friday, July 26, 2019 3:37:41 PM

Attachments: <u>swerda resume.pdf</u>

Mr. Denton, as requested, please find my resume attached. This is from USAJobs – let me know if you need something formatted a bit more formally.

Thank you,

Frank

Frank Swerda

Enforcement Officer

Office of Foreign Assets Control

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

202-622-0092

frank.swerda@treasury.gov

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 167 of 296

Frank T Swerda

250 Thumper Drive Ranson, WV 25438 United States Mobile: 240-604-7721 - Ext: Evening Phone: 304-724-6698 - Ext: Email: frankswerda@gmail.com

Availability: Job Type: Permanent Work Schedule: Full-Time

Desired locations:

United States - DC United States - MD - Montgomery County

Work Experience:

Office of Foreign Assets Control 1500 Pennsylvania Ave Washington DC, DC 20220 United States

01/2018 - Present

Salary: 122,310.00 USD Per Year

Hours per week: 40

Series: 1801 Pay Plan: GS Grade: 13 Enforcement Officer (This is a federal job) Duties, Accomplishments and Related Skills:

As an Enforcement Officer with the Office of Foreign Assets Control (OFAC), I conduct a wide variety of investigations of possible violations of the economic sanctions programs administered by OFAC. I compile and analyze information collected during the course of investigations and make oral and written recommendations with respect to the proper disposition of cases. I coordinate with persons in the Intelligence Community, Federal Law Enforcement, and other Divisions within OFAC, including Licensing, Compliance, Counter-Narcotics and Trans-national Threats, and Policy, to ensure that related matters are handled in a coordinated and holistic manner. I manage negotiations between OFAC and potential sanctions violators regarding settlements of civil liability and the administration of other penalties. I represent OFAC and the Office of Enforcement by participation in meetings with potential violators, targets or other companies, as well as industry representatives. I frequently speak at public and U.S. government-sponsored training events concerning OFAC's enforcement program.

I have received the highest poss ble performance evaluation every year since joining OFAC, and was awarded Employee of the Year in 2015.

I currently hold a U.S. Government clearance at the TS/SCI level, re-certified on March 13, 2017.

Office of Foreign Assets Control

1500 Pennsylvania Ave. NW Washington DC, DC 20220 United States

06/2010 - 01/2018

Salary: 113,755.00 USD Per Year

Hours per week: 40 Pay Plan: GS Grade: 13

Sanctions Licensing Officer (This is a federal job)
Duties, Accomplishments and Related Skills:

As a Sanctions Licensing Officer for the Office of Foreign Assets Control (OFAC), I reviewed and analyzed complex transactional matters from the public, the U.S. Government and the Intelligence Community. I worked closely with the various divisions of OFAC, including Enforcement, Compliance, and Chief Counsel's Office, to apply the appropriate licensing, foreign policy, and national security principles to each case.

While my primary focus was the Iranian sanctions program, I also handled cases from nearly every program administered by OFAC, including the North Korean, Sudanese, Syrian and Cuban sanctions regulations, as well as those programs related to the control of the proliferation of weapons of mass destruction and the targeting of global terrorist organizations. My duties included the preparation of specific authorizations, denials, and interpretive guidance related to the exportation, re-exportation, or transfer of goods, services and technology to countries or entities sanctioned by the United States. In addition, I provided subject matter expertise for cases involving information technology, telecommunications, and other related technical matters. I provided guidance for the drafting and implementation of general licenses and other regulatory changes and amendments to the Iranian Transactions and Sanctions Regulations. I provided sanctions training and education to the general public via U.S. Government-sponsored seminars and performed outreach via speaking engagements with industry trade groups in Washington, DC. I provided analysis to senior officials, both within OFAC and other U.S. Government agencies, and frequently coordinated with the U.S. State Department to obtain foreign policy guidance related to complex transactions under review by OFAC. I provided subject matter expertise and investigations assistance to OFAC's Enforcement and targeting divisions, as well as intra- and inter-agency intelligence operations and agencies.

I have received the highest poss ble performance evaluation every year since joining OFAC, and was awarded Employee of the Year in 2015.

I currently hold a U.S. Government clearance at the TS/SCI level, re-certified on March 13, 2017.

Supervisor: Jeanette Miller (202-622-2480)
Okay to contact this Supervisor: Yes

International Business Machines (IBM)

1301 K Street, NW

Washington DC, DC 20005 United States

07/2004 - 06/2010

Salary: 90,000.00 USD Per Year

Hours per week: 50

Governmental Programs Executive - Export Regulation Office

Duties, Accomplishments and Related Skills:

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 168 of 296

Provided policy guidance to IBM business units worldwide on compliance with US Export Regulations. Acted as focal point for Europe, Middle East, and Africa compliance programs and implementation. Conducted worldwide export compliance reviews and support visits for IBM's overseas branches, subsidiaries, and holdings. Directed and maintained IBM's compliance with the US Treasury Department Office of Foreign Assets Control (OFAC) regulations. Prepared and submitted license requests to the U.S. Commerce Department's Bureau of Industry and Security (BIS), OFAC, and the US State Department's Directorate of Defense Trade Controls (DDTC). Prepared and submitted Commodity Jurisdiction Requests to DDTC. Ensured continued compliance with all provisos, license conditions, and Security and Safeguard Protocols for all authorizations as applicable. Directed and maintained compliance with US Anti-Boycott Regulations found in both the Export Administration Regulations and the US Treasury Department tax code, including all related reporting. Prepared and submitted Commodity Classification requests, for both hardware and software, to the US Department of Commerce, Bureau of Industry and Security (BIS). Prepared and submitted semi-annual cryptographic delivery reports as required by BIS. Performed due diligence on acquisitions and divestitures to ensure compliance with US export regulations. Served as an Empowered Official of the IBM Corporation and held a US Government Secret Clearance.

Supervisor: Edward Bond (202-551-9315)
Okay to contact this Supervisor: Contact me first

International Business Machines (IBM)

1301 K Street, NW Suite 1200

Washington DC, DC 20005 United States

12/1996 - 07/2004

Salary: 75,000.00 USD Per Year

Hours per week: 50 Technology Specialist

Duties, Accomplishments and Related Skills:

Provided Information Technology infrastructure support for the IBM Governmental Programs (GP) Office, reporting directly to the GP Vice President. Acted as IT procurement officer and IT strategy director for the GP function. Provided network and database administration for the GP Office. Developed reporting tools to generate required lobbying disclosure reports. Developed and maintained databases, collaborative applications, and other tools to support GP, as well as specific initiatives from the IBM CEO. Developed and maintained websites for the Global GP Function. Provided graphics and multimedia support for the Global GP Function. Planned and managed IT support for worldwide events and on Capitol Hill.

Education

University of Maryland University College College Park, MD United States

Some College Coursework Completed 05/2010

Major: Business

Job Related Training:

Completed both government-sponsored and private training relative to compliance with the Export Administration Regulations, the International Traffic in Arms Regulations, and related subjects. Training has included various public and private sector sponsored seminars, as well as internal U.S. Government training relevant to my positions as a Sanctions Licensing Officer and an Enforcement Officer.

References:

Name	Employer	Title	Phone	Email
Marcus Pressl	Orbital Sciences Corporation	Sr. Principal Engineer	304-945-3489	mpressl@gmail.com
Edward Bond (*)	IBM	Director, Export Regulation Office	202-251-7918	edbond@us.ibm.com

(*) Indicates professional reference

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 169 of 296

From: <u>Frank.Swerda@treasury.gov</u>

To: <u>Denton, David (USANYS)</u>; <u>MariaHelene.VanWagenberg@treasury.gov</u>

Subject: RE: OFAC Witness Help - SDNY Nejad Prosecution

Dial in numbers*:

Country

Local/Toll Number

Freephone/Toll Free Number

USA

1-202-927-2255

866-341-2255

Passcodes:

Participant: 708787

From: Frank.Swerda@treasury.gov
To: Denton, David (USANYS)

Cc: <u>MariaHelene.VanWagenberg@treasury.gov</u>

Subject: RE: OFAC Witness Help - SDNY Nejad Prosecution

Date: Wednesday, July 24, 2019 3:20:10 PM

David, thanks. I think that works for us. I'll send an invitation.

Frank

From: Denton, David (USANYS)

Sent: Wednesday, July 24, 2019 1:38 PM

To: Swerda, Frank

Cc: Van Wagenberg, Maria-Helene

Subject: RE: OFAC Witness Help - SDNY Nejad Prosecution

That's fine – can we talk at 930 or 10 tomorrow?

From: Frank.Swerda@treasury.gov < Frank.Swerda@treasury.gov >

Sent: Wednesday, July 24, 2019 1:31 PM

To: Denton, David (USANYS) < DDenton@usa.doi.gov>

Cc: MariaHelene.VanWagenberg@treasury.gov

Subject: RE: OFAC Witness Help - SDNY Nejad Prosecution

David, I'm afraid my morning meetings ran long, and the afternoon subsequently became less convenient for everyone. Would you have some time tomorrow? Maria and I are both free until

2pm. Frank

From: Denton, David (USANYS) < <u>David.Denton@usdoj.gov</u>>

Sent: Wednesday, July 24, 2019 8:48 AM

To: Swerda, Frank < <u>Frank.Swerda@treasury.gov</u>>

Cc: Van Wagenberg, Maria-Helene < MariaHelene. Van Wagenberg@treasury.gov>

Subject: Re: OFAC Witness Help - SDNY Nejad Prosecution

Thanks Frank, this afternoon works— let me know a good time for you and I can give you a ring.

On Jul 24, 2019, at 7:54 AM, "Frank.Swerda@treasury.gov" < Frank.Swerda@treasury.gov> wrote:

Mr. Denton, Julie Malec has asked me to handle this request on behalf of OFAC Enforcement. Would you have a few minutes to discuss this week? I'm free this afternoon, tomorrow AM, and all day Friday.

Thank you,

Frank

Frank Swerda

Enforcement Officer

Office of Foreign Assets Control

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

202-622-0092

frank.swerda@treasury.gov

From: Denton, David (USANYS) < <u>David.Denton@usdoj.gov</u>>

Sent: Thursday, July 18, 2019 10:18 AM **To:** Malec, Julie < <u>Julie.Malec@treasury.gov</u>>

Cc: David.Denton@usdoj.gov">David.Denton@usdoj.gov; Van Wagenberg, Maria-Helene

<<u>MariaHelene.VanWagenberg@treasury.gov</u>>

Subject: Re: OFAC Witness Help - SDNY Nejad Prosecution

Sure. The trial is scheduled to start October 21, and while I can't be that precise, I think it's safe to say that the OFAC witness will be on in the first week. Happy to jump on a call today or tomorrow if it would help to just explain a little more of the lay of the land.

David W. Denton, Jr. Assistant U.S. Attorney Southern District of New York (212) 637-2744

On Jul 18, 2019, at 10:15 AM, "Julie.Malec@treasury.gov" < Julie.Malec@treasury.gov > wrote:

David

Do you have any rough estimate of a timeline for testimony on this matter?

Julie M. Malec

Acting Assistant Director for Enforcement

Office of Foreign Assets Control

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

202.622.1984

<u>Julie.Malec@treasury.gov</u> (unclassified)

maleci@tsdn.treasury.sgov.gov (SIPR)

maleci@treasurv.ic.gov (JWICS)

From: Van Wagenberg, Maria-Helene < <u>MariaHelene.VanWagenberg@treasury.gov</u>>

Sent: Wednesday, July 17, 2019 3:12 PM

To: Malec, Julie < Julie.Malec@treasury.gov >; Miremadi, Kaveh < Kaveh.Miremadi@treasury.gov >;

Wells, Rosanna < Rosanna. Wells@treasury.gov >

Cc: < <u>David.Denton@usdoj.gov</u>>

Subject: OFAC Witness Help - SDNY Nejad Prosecution

Hi Julie, Kaveh, and Rosie,

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Best regards,

Maria

Maria H. van Wagenberg

Attorney-Advisor

Office of the Chief Counsel (Foreign Assets Control)

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, DC 20220

Email: mariahelene.vanwagenberg@treasury.gov

Tel: 202-622-2070

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David W. Denton, Jr. Assistant U.S. Attorney Southern District of New York (212) 637-2744 From: Frank.Swerda@treasury.gov
To: Denton, David (USANYS)

Cc: <u>MariaHelene.VanWagenberg@treasury.gov</u>

Subject: RE: OFAC Witness Help - SDNY Nejad Prosecution

Date: Wednesday, July 24, 2019 1:32:12 PM

David, I'm afraid my morning meetings ran long, and the afternoon subsequently became less convenient for everyone. Would you have some time tomorrow? Maria and I are both free until 2pm.

Frank

From: Denton, David (USANYS)

Sent: Wednesday, July 24, 2019 8:48 AM

To: Swerda, Frank

Cc: Van Wagenberg, Maria-Helene

Subject: Re: OFAC Witness Help - SDNY Nejad Prosecution

Thanks Frank, this afternoon works—let me know a good time for you and I can give you a ring.

On Jul 24, 2019, at 7:54 AM, "Frank.Swerda@treasury.gov" < Frank.Swerda@treasury.gov wrote:

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Thank you,

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Enforcement Officer

Office of Foreign Assets Control

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

202-622-0092

frank.swerda@treasury.gov

From: Denton, David (USANYS) < <u>David.Denton@usdoj.gov</u>>

Sent: Thursday, July 18, 2019 10:18 AM

To: Malec, Julie < Julie. Malec@treasury.gov >

Cc: David.Denton@usdoj.gov">Co: David.Denton@usdoj.gov Van Wagenberg, Maria-Helene

<<u>MariaHelene.VanWagenberg@treasury.gov</u>>

Subject: Re: OFAC Witness Help - SDNY Nejad Prosecution

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David

Do you have any rough estimate of a timeline for testimony on this matter?

Julie M. Malec

Acting Assistant Director for Enforcement

Office of Foreign Assets Control

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

202.622.1984

Julie.Malec@treasury.gov (unclassified)

maleci@tsdn.treasury.sgov.gov (SIPR)

maleci@treasury.ic.gov (JWICS)

From: Van Wagenberg, Maria-Helene < MariaHelene. Van Wagenberg@treasury.gov>

Sent: Wednesday, July 17, 2019 3:12 PM

To: Malec, Julie < <u>Julie.Malec@treasury.gov</u>>; Miremadi, Kaveh < <u>Kaveh.Miremadi@treasury.gov</u>>;

Wells, Rosanna < Rosanna. Wells@treasury.gov >

Cc: < David.Denton@usdoj.gov>

Subject: OFAC Witness Help - SDNY Nejad Prosecution

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1500 Pennsylvania Avenue, N.W.

Washington, DC 20220

Email: mariahelene.vanwagenberg@treasury.gov

Tel: 202-622-2070

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David W. Denton, Jr.

Assistant U.S. Attorney Southern District of New York (212) 637-2744 From: Frank.Swerda@treasury.gov
To: Denton, David (USANYS)

Cc: <u>MariaHelene.VanWagenberg@treasury.gov</u>

Subject: FW: OFAC Witness Help - SDNY Nejad Prosecution

Date: Wednesday, July 24, 2019 7:54:13 AM

Mr. Denton, Julie Malec has asked me to handle this request on behalf of OFAC Enforcement. Would you have a few minutes to discuss this week? I'm free this afternoon, tomorrow AM, and all day Friday.

Thank you,

Frank

Frank Swerda

Enforcement Officer

Office of Foreign Assets Control

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

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frank.swerda@treasurv.gov

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Sent: Thursday, July 18, 2019 10:18 AM

To: Malec, Julie < <u>Julie.Malec@treasury.gov</u>>

Cc: <u>David.Denton@usdoj.gov</u> <'David.Denton@usdoj.gov'>; Van Wagenberg, Maria-Helene

<<u>MariaHelene.VanWagenberg@treasury.gov</u>>

Subject: Re: OFAC Witness Help - SDNY Nejad Prosecution

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Assistant U.S. Attorney
Southern District of New York
(212) 637-2744

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Acting Assistant Director for Enforcement

Office of Foreign Assets Control

U.S. Department of the Treasury

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Washington, D.C. 20220

202.622.1984

Julie.Malec@treasury.gov (unclassified) malecj@tsdn.treasury.sgov.gov (SIPR) malecj@treasury.ic.gov (JWICS)

From: Van Wagenberg, Maria-Helene < MariaHelene. Van Wagenberg@treasury.gov >

Sent: Wednesday, July 17, 2019 3:12 PM

To: Malec, Julie < <u>Julie.Malec@treasury.gov</u>>; Miremadi, Kaveh < <u>Kaveh.Miremadi@treasury.gov</u>>;

Wells, Rosanna < Rosanna. Wells@treasury.gov >

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Maria

Maria H. van Wagenberg Attorney-Advisor

Office of the Chief Counsel (Foreign Assets Control)

U.S. Department of the Treasury 1500 Pennsylvania Avenue, N.W.

Washington, DC 20220

Email: mariahelene.vanwagenberg@treasury.gov

Tel: 202-622-2070

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From: <u>Julie.Malec@treasury.gov</u>
To: <u>Denton, David (USANYS)</u>

Subject: RE: OFAC Witness Help - SDNY Nejad Prosecution

Date: Thursday, July 18, 2019 10:37:19 AM

Thanks, David. The person I have in mind is out this week on vacation, but I will circle up with him on Monday with Maria and we can plan from there.

From: Denton, David (USANYS)

Sent: Thursday, July 18, 2019 10:18 AM

To: Malec, Julie

Cc: David.Denton@usdoj.gov <'David.Denton@usdoj.gov'>; Van Wagenberg, Maria-Helene

Subject: Re: OFAC Witness Help - SDNY Nejad Prosecution

Sure. The trial is scheduled to start October 21, and while I can't be that precise, I think it's safe to say that the OFAC witness will be on in the first week. Happy to jump on a call today or tomorrow if it would help to just explain a little more of the lay of the land.

David W. Denton, Jr. Assistant U.S. Attorney Southern District of New York (212) 637-2744

On Jul 18, 2019, at 10:15 AM, "Julie.Malec@treasury.gov" <Julie.Malec@treasury.gov> wrote:

David

Do you have any rough estimate of a timeline for testimony on this matter?

Julie M. Malec

Acting Assistant Director for Enforcement

Office of Foreign Assets Control

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

202.622.1984

<u>Julie.Malec@treasury.gov</u> (unclassified)

maleci@tsdn.treasury.sgov.gov (SIPR)

maleci@treasury.ic.gov (JWICS)

From: Van Wagenberg, Maria-Helene < <u>MariaHelene.VanWagenberg@treasury.gov</u>>

Sent: Wednesday, July 17, 2019 3:12 PM

To: Malec, Julie < Julie. Malec@treasury.gov>; Miremadi, Kaveh < Kaveh. Miremadi@treasury.gov>;

Wells, Rosanna < Rosanna. Wells@treasury.gov >

Cc: < <u>David.Denton@usdoj.gov</u>>

Subject: OFAC Witness Help - SDNY Nejad Prosecution

Hi Julie, Kaveh, and Rosie,

I'm putting you in touch with Dave Denton, an AUSA in the SDNY (copied here), who has asked about a potential OFAC witness for their prosecution of Ali Sadr Hashemi Nejad for sanctions violations:

https://www.justice.gov/opa/pr/iranian-national-arrested-scheme-evade-us-economic-sanctions-illicitly-sending-more-115. I think SDNY will be asking ENF to run a license check on the various entities and people involved (SDNY had previously been in touch with Mike Dondarski and confirmed that there were no licenses in place, but still needs to obtain a formal license check), as well as for an OFAC witness to testify on the various regulations. I'll let Dave follow up with you on the specifics, but please feel free to keep us looped in to the extent our legal authorities are involved. Thanks all! Best regards,

Maria

Maria H. van Wagenberg Attorney-Advisor Office of the Chief Counsel (Foreign Assets Control) U.S. Department of the Treasury 1500 Pennsylvania Avenue, N.W. Washington, DC 20220

Email: mariahelene.vanwagenberg@treasury.gov

Tel: 202-622-2070

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From: <u>Julie.Malec@treasury.gov</u>
To: <u>"David.Denton@usdoj.gov"</u>

Cc: MariaHelene.VanWagenberg@treasury.gov

Subject: RE: OFAC Witness Help - SDNY Nejad Prosecution

Date: Thursday, July 18, 2019 10:15:33 AM

David

Do you have any rough estimate of a timeline for testimony on this matter?

Julie M. Malec

Acting Assistant Director for Enforcement

Office of Foreign Assets Control

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

202.622.1984

<u>Julie.Malec@treasury.gov</u> (unclassified)

malecj@tsdn.treasury.sgov.gov (SIPR)

maleci@treasury.ic.gov (JWICS)

From: Van Wagenberg, Maria-Helene **Sent:** Wednesday, July 17, 2019 3:12 PM

To: Malec, Julie; Miremadi, Kaveh; Wells, Rosanna

Cc:

Subject: OFAC Witness Help - SDNY Nejad Prosecution

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From: <u>Julie.Malec@treasury.gov</u>

To: MariaHelene.VanWagenberg@treasury.gov; Kaveh.Miremadi@treasury.gov; Rosanna.Wells@treasury.gov

Cc: Denton, David (USANYS)

Subject: Re: OFAC Witness Help - SDNY Nejad Prosecution

Date: Wednesday, July 17, 2019 4:21:42 PM

Thank you, Maria. David we will touch base with you this week.

Thanks

Julie

From: Van Wagenberg, Maria-Helene Date: July 17, 2019 at 3:11:57 PM EDT

To: Malec, Julie, Miremadi, Kaveh, Wells, Rosanna

Cc: 'David.Denton@usdoj.gov'

Subject: OFAC Witness Help - SDNY Nejad Prosecution

Hi Julie, Kaveh, and Rosie,

I'm putting you in touch with Dave Denton, an AUSA in the SDNY (copied here), who has asked about a potential OFAC witness for their prosecution of Ali Sadr Hashemi Nejad for sanctions violations: https://www.justice.gov/opa/pr/iranian-national-arrested-scheme-evade-us-economic-sanctions-illicitly-sending-more-115. I think SDNY will be asking ENF to run a license check on the various entities and people involved (SDNY had previously been in touch with Mike Dondarski and confirmed that there were no licenses in place, but still needs to obtain a formal license check), as well as for an OFAC witness to testify on the various regulations. I'll let Dave follow up with you on the specifics, but please feel free to keep us looped in to the extent our legal authorities are involved. Thanks all! Best regards,

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Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 182 of 296

From: <u>MariaHelene.VanWagenberg@treasury.gov</u>

To: Julie.Malec@treasury.gov; Kaveh.Miremadi@treasury.gov; Rosanna.Wells@treasury.gov

Cc: <u>Denton, David (USANYS)</u>

Subject: OFAC Witness Help - SDNY Nejad Prosecution Date: Wednesday, July 17, 2019 3:12:30 PM

Hi Julie, Kaveh, and Rosie,

I'm putting you in touch with Dave Denton, an AUSA in the SDNY (copied here), who has asked about a potential OFAC witness for their prosecution of Ali Sadr Hashemi Nejad for sanctions violations: https://www.justice.gov/opa/pr/iranian-national-arrested-scheme-evade-us-economic-sanctions-illicitly-sending-more-115. I think SDNY will be asking ENF to run a license check on the various entities and people involved (SDNY had previously been in touch with Mike Dondarski and confirmed that there were no licenses in place, but still needs to obtain a formal license check), as well as for an OFAC witness to testify on the various regulations. I'll let Dave follow up with you on the specifics, but please feel free to keep us looped in to the extent our legal authorities are involved. Thanks all! Best regards,

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From: MariaHelene.VanWagenberg@treasury.gov

To: <u>Denton, David (USANYS)</u>
Subject: RE: OFAC Witness Help

Date: Wednesday, July 17, 2019 3:02:33 PM

Hi Dave,

Apologies for the delay. Hope everything is going well with you too, and please send Corinne my regards. We generally route any OFAC witness requests through our Enforcement division, with our office playing a consulting role in the process. Since Mike is out on paternity leave, I'll direct you to the three chiefs in that division, who should be able to set you up with the appropriate OFAC witness. (And agree that hopefully the testimony can be at a much lower level of complexity this time!). Thanks, and feel free to give me a call if you'd like to discuss.

All best,

Maria

Maria H. van Wagenberg

Attorney-Advisor

Office of the Chief Counsel (Foreign Assets Control)

U.S. Department of the Treasury

1500 Pennsylvania Avenue, N.W.

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From: Denton, David (USANYS)
Sent: Tuesday, July 9, 2019 8:45 AM
To: Van Wagenberg, Maria-Helene
Subject: OFAC Witness Help

Maria,

Long time! Hope all's going well at Treasury.

I was hoping I could enlist your help regarding another Iranian sanctions trial we have coming up. It's this case, involving Ali Sadr Hashemi Nejad, https://www.justice.gov/opa/pr/iranian-national-arrested-scheme-evade-us-economic-sanctions-illicitly-sending-more-115. We're going to need some of the same help that we needed in the Zarrab/Atilla case, though I hope at a much lower level of complexity. Specifically, we'll need to run a license check on the various entities and people involved (the team had previously been in touch with Mike Dondarski, and I gather we know that there are no licenses, but we didn't do the formal check with a letter and all that), and then we'll need someone from OFAC to be our witness about the various regs, much like Lisa Palluconi was in the Atilla trial.

Do you have a minute sometime this week to talk about it? If this isn't really your bailiwick, I'd be super grateful if there was someone else that you thought you could put us in touch with to get this stuff set up – trial is scheduled for October 21, so not right around the corner, but we also don't have tons of lead time either.

Thanks much,

Dave

David W. Denton, Jr.
Assistant U.S. Attorney
U.S. Attorney's Office
Southern District of New York
(212) 637-2744

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 185 of 296

From: <u>Denton, David (USANYS)</u>

To: Kim, Jane (USANYS) 4; Krouse, Michael (USANYS)

Subject: OFAC

My friend Maria in their OGC just called, together with a guy from Enforcement named Frank Swerda who's going to be our witness. I explained roughly what we were looking for (Maria was also the OGC lawyer on Atilla, so she's got Lisa's testimony there as well), Frank is going to send us a resume so that we can give expert notice, and we're going to send him the list of entities that we need a license check on. Frank's got some commitments over the next couple weeks, but is around reliably starting in the back half of August, so I told them that we'd get through the license check issue, and then we'd set up a time to meet down at Treasury around then.

David W. Denton, Jr.
Assistant U.S. Attorney
U.S. Attorney's Office
Southern District of New York
(212) 637-2744

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 44

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 187 of 296

 From:
 Crowley, Shawn (USANYS)

 To:
 Donaleski, Rebekah (USANYS)

 Cc:
 Bove, Emil (USANYS)

Subject: Sadr

Date: Monday, March 9, 2020 10:36:10 AM

Hey—can you give us a quick call on Sadr when you get a min? Thanks

Shawn G. Crowley
Co-Chief, Terrorism and International Narcotics Unit
United States Attorney's Office
Southern District of New York
212-637-1034 (o)
347-880-1399 (c)

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 45

From: Kaveh.Miremadi@treasury.gov

To: Bove, Emil (USANYS); Kim, Jane (USANYS) 4

 Cc:
 MariaHelene.VanWagenberg@treasury.gov;
 Jacqueline.Brewer@treasury.gov;
 Lake, Stephanie (USANYS);

Krouse, Michael (USANYS); LynchG@dany.nyc.gov; Lynch, Garrett (USANYS) [Contractor]; Crowley, Shawn

(USANYS)

Subject: RE: Time Sensitive Question

Date: Monday, March 9, 2020 10:50:38 AM

Cell: 202-746-4485

From: Bove, Emil (USANYS) < Emil. Bove@usdoj.gov>

Sent: Monday, March 9, 2020 10:25 AM

To: Kim, Jane (USANYS) 4 < Jane. Kim@usdoj.gov>

Cc: Miremadi, Kaveh <Kaveh.Miremadi@treasury.gov>; Van Wagenberg, Maria-Helene

<MariaHelene.VanWagenberg@treasury.gov>; Brewer, Jacqueline

<Jacqueline.Brewer@treasury.gov>; Lake, Stephanie (USANYS) <Stephanie.Lake@usdoj.gov>;
Krouse, Michael (USANYS) <Michael.Krouse@usdoj.gov>; LynchG@dany.nyc.gov; Lynch, Garrett

(USANYS) [Contractor] <Garrett.Lynch@usdoj.gov>; Crowley, Shawn (USANYS)

<Shawn.Crowley@usdoj.gov>

Subject: Re: Time Sensitive Question

** Caution: External email. Pay attention to suspicious links and attachments. Send suspicious email to suspicious email to suspicious emailto:suspect@treasury.gov **

Hi Kaveh, what number can we reach you at?

On Mar 9, 2020, at 10:04 AM, Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>> wrote:

I don't. I'm adding my Chiefs to this chain.

On Mar 9, 2020, at 9:23 AM, "<u>Kaveh.Miremadi@treasury.gov</u>" < <u>Kaveh.Miremadi@treasury.gov</u>> wrote:

Hi Jane,

Do you know who or what division in OFAC this letter was sent to? I'm searching our records now. We may not be able to get you a comprehensive answer this morning.

Kaveh

From: Kim, Jane (USANYS) 4 < <u>Jane.Kim@usdoj.gov</u>>

Sent: Sunday, March 8, 2020 5:58 PM

To: Miremadi, Kaveh < <u>Kaveh.Miremadi@treasury.gov</u>>; Van Wagenberg, Maria-Helene < <u>MariaHelene.VanWagenberg@treasury.gov</u>>; Brewer, Jacqueline < <u>Jacqueline.Brewer@treasury.gov</u>>

Cc: Lake, Stephanie (USANYS) < Stephanie.Lake@usdoj.gov>; Krouse, Michael (USANYS) < Michael.Krouse@usdoj.gov>; Lynch, Garrett < LynchG@dany.nyc.gov>; Lynch, Garrett (USANYS) [Contractor] < Garrett.Lynch@usdoj.gov>

Cubicate Time Consitive Question

Subject: Time Sensitive Question

** Caution: External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Kaveh, Maria, and Jacqui:

I'm attaching a letter dated June 16, 2011, from Commerzbank to OFAC concerning a specific payment. Could you please let us know what actions OFAC took in response to this letter? We need to update the Court on this issue tomorrow morning, so any information would be hugely appreciated.

Thank you in advance, Jane

Jane Kim Assistant United States Attorney Southern District of New York One St. Andrew's Plaza New York, New York 10007

Phone: (212) 637-2038 Email: jane.kim@usdoj.gov United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 46

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 192 of 296

From: <u>Jankowski, Lou (USANYS)</u>

To: DeFilippis, Andrew (USANYS); Soto, Grace (USANYS)
Cc: Crowley, Shawn (USANYS); Bove, Emil (USANYS)

Subject: RE: Share Drive

Date: Monday, March 9, 2020 10:54:30 AM

A shortcut has been placed under your N drive for the requested shared folder, please logoff the network and logon again to gain access.

From: DeFilippis, Andrew (USANYS) <ADeFilippis@usa.doj.gov>

Sent: Monday, March 09, 2020 10:51 AM

To: Soto, Grace (USANYS) <GSoto@usa.doj.gov>; Jankowski, Lou (USANYS)

<LJankowski1@usa.doj.gov>

Cc: Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov>; Bove, Emil (USANYS) <EBove@usa.doj.gov>

Subject: Share Drive

Can you please provide Shawn Crowley and Emil Bove access to the shared drive Iran_VEHousing-2017R01160 as soon as possible? Thank you.

Andrew J. DeFilippis
Assistant United States Attorney
Southern District of New York
1 St. Andrew's Plaza
New York, NY 10007
(212) 637-2231

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 47

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 194 of 296

From: <u>DeFilippis</u>, Andrew (USANYS)

To: Bove, Emil (USANYS); Crowley, Shawn (USANYS)

Subject: Emails

Date: Monday, March 9, 2020 11:40:08 AM

Attachments: RE OFAC.msg.msg

RE OFAC.msg.msg RE OFAC.msg.msg RE OFAC.msg.msg RE OFAC.msg.msg RE OFAC.msg.msg RE OFAC.msg.msg OFAC.msg.msg

Andrew J. DeFilippis
Assistant United States Attorney
Southern District of New York
1 St. Andrew's Plaza
New York, NY 10007
(212) 637-2231

From: <u>Laroche, Matthew (USANYS)</u>

To: <u>Lynch, Garrett</u>; <u>DeFilippis, Andrew (USANYS)</u>

Subject: RE: OFAC

Date: Monday, July 31, 2017 6:46:10 PM

My fault, sorry I missed you. My Wednesday is wide open if you have some time. Thanks for the CD and binders.

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Monday, July 31, 2017 3:50 PM

To: Laroche, Matthew (USANYS); DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

I stopped around 3:00, but neither of you was in. I dropped off a CD with all the warrants as well as the binders with all the docs relevant to the USD payments – they're on a chair in Andrew's office.

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Friday, July 28, 2017 12:36 PM

To: Lynch, Garrett < <u>LynchG@dany.nyc.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>Andrew.DeFilippis@usdoj.gov</u>>

Subject: RE: OFAC

Same!

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Friday, July 28, 2017 11:57 AM

To: Laroche, Matthew (USANYS) < <u>MLaroche@usa.doj.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: RE: OFAC

I sent Kaufmann an email about the week of 8/21 - I'II let you know what I hear. He told me his guy shouldn't have a problem coming to the U.S. (I sort of wanted him to say he'd only agree to meet in the Caribbean).

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Friday, July 28, 2017 11:26 AM

To: Lynch, Garrett < <u>LynchG@dany.nyc.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>Andrew.DeFilippis@usdoj.gov</u>>

Subject: RE: OFAC

Sounds good. I'm free until 4 or so and then again after 5:30.

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Friday, July 28, 2017 11:14 AM

To: Laroche, Matthew (USANYS) < MLaroche@usa.doj.gov>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: RE: OFAC

Ok, Mike is free after 3:00 on Monday. Maybe I'll come down to you guys just to check in and grab

that ID.

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Thursday, July 27, 2017 6:18 PM

To: Lynch, Garrett < <u>LynchG@dany.nyc.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>Andrew.DeFilippis@usdoj.gov</u>>

Subject: RE: OFAC

Monday is good except for 10am and 4:30. I'm also fine scheduling Kaufman's guy for whenever is convenient in August. Maybe sometime during the week of August 21?

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Thursday, July 27, 2017 11:24 AM

To: Laroche, Matthew (USANYS) < <u>MLaroche@usa.doj.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov></u>

Subject: OFAC

Dondarski is free for a call next week if you all are interested in talking to OFAC (I'll be around Monday and Tuesday, then leaving on vacation on Wednesday).

Garrett A. Lynch
Deputy Bureau Chief
Major Economic Crimes Bureau
New York County District Attorney's Office
(212) 335-4335
lynchg@dany.nyc.gov

From: Lynch, Garrett

To: Laroche, Matthew (USANYS); DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

Date: Monday, July 31, 2017 3:50:53 PM

I stopped around 3:00, but neither of you was in. I dropped off a CD with all the warrants as well as the binders with all the docs relevant to the USD payments – they're on a chair in Andrew's office.

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Friday, July 28, 2017 12:36 PM

To: Lynch, Garrett; DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

Same!

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Friday, July 28, 2017 11:57 AM

To: Laroche, Matthew (USANYS) < MLaroche@usa.doj.gov >; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: RE: OFAC

I sent Kaufmann an email about the week of 8/21 - I'II let you know what I hear. He told me his guy shouldn't have a problem coming to the U.S. (I sort of wanted him to say he'd only agree to meet in the Caribbean).

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Friday, July 28, 2017 11:26 AM

To: Lynch, Garrett < LynchG@dany.nyc.gov >; DeFilippis, Andrew (USANYS)

<<u>Andrew.DeFilippis@usdoj.gov</u>>

Subject: RE: OFAC

Sounds good. I'm free until 4 or so and then again after 5:30.

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Friday, July 28, 2017 11:14 AM

To: Laroche, Matthew (USANYS) < MLaroche@usa.doj.gov>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: RE: OFAC

Ok, Mike is free after 3:00 on Monday. Maybe I'll come down to you guys just to check in and grab

that ID.

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Thursday, July 27, 2017 6:18 PM

To: Lynch, Garrett < <u>LynchG@dany.nyc.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>Andrew.DeFilippis@usdoj.gov></u>

Subject: RE: OFAC

Monday is good except for 10am and 4:30. I'm also fine scheduling Kaufman's guy for whenever is convenient in August. Maybe sometime during the week of August 21?

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Thursday, July 27, 2017 11:24 AM

To: Laroche, Matthew (USANYS) < MLaroche@usa.doj.gov>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: OFAC

Dondarski is free for a call next week if you all are interested in talking to OFAC (I'll be around Monday and Tuesday, then leaving on vacation on Wednesday).

Garrett A. Lynch
Deputy Bureau Chief
Major Economic Crimes Bureau
New York County District Attorney's Office
(212) 335-4335
lynchg@dany.nyc.gov

From: <u>Laroche, Matthew (USANYS)</u>

To: Lynch, Garrett; DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

Date: Friday, July 28, 2017 12:36:28 PM

Same!

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Friday, July 28, 2017 11:57 AM

To: Laroche, Matthew (USANYS); DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

I sent Kaufmann an email about the week of 8/21 - I'II let you know what I hear. He told me his guy shouldn't have a problem coming to the U.S. (I sort of wanted him to say he'd only agree to meet in the Caribbean).

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Friday, July 28, 2017 11:26 AM

To: Lynch, Garrett < <u>LynchG@dany.nyc.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>Andrew.DeFilippis@usdoj.gov</u>>

Subject: RE: OFAC

Sounds good. I'm free until 4 or so and then again after 5:30.

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Friday, July 28, 2017 11:14 AM

To: Laroche, Matthew (USANYS) < <u>MLaroche@usa.doj.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: RE: OFAC

Ok, Mike is free after 3:00 on Monday. Maybe I'll come down to you guys just to check in and grab

that ID.

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Thursday, July 27, 2017 6:18 PM

To: Lynch, Garrett < <u>LynchG@dany.nyc.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>Andrew.DeFilippis@usdoj.gov</u>>

Subject: RE: OFAC

Monday is good except for 10am and 4:30. I'm also fine scheduling Kaufman's guy for whenever is convenient in August. Maybe sometime during the week of August 21?

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Thursday, July 27, 2017 11:24 AM

To: Laroche, Matthew (USANYS) < MLaroche@usa.doj.gov>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: OFAC

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Garrett A. Lynch

Deputy Bureau Chief

Major Economic Crimes Bureau

New York County District Attorney's Office

(212) 335-4335 lynchg@dany.nyc.gov

From: Lynch, Garrett

To: Laroche, Matthew (USANYS); DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

Date: Friday, July 28, 2017 11:56:26 AM

I sent Kaufmann an email about the week of 8/21 - I'II let you know what I hear. He told me his guy shouldn't have a problem coming to the U.S. (I sort of wanted him to say he'd only agree to meet in the Caribbean).

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Friday, July 28, 2017 11:26 AM

To: Lynch, Garrett; DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

Sounds good. I'm free until 4 or so and then again after 5:30.

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Friday, July 28, 2017 11:14 AM

To: Laroche, Matthew (USANYS) < <u>MLaroche@usa.doj.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: RE: OFAC

Ok, Mike is free after 3:00 on Monday. Maybe I'll come down to you guys just to check in and grab

that ID.

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Thursday, July 27, 2017 6:18 PM

To: Lynch, Garrett < <u>LynchG@dany.nyc.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>Andrew.DeFilippis@usdoj.gov</u>>

Subject: RE: OFAC

Monday is good except for 10am and 4:30. I'm also fine scheduling Kaufman's guy for whenever is convenient in August. Maybe sometime during the week of August 21?

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Thursday, July 27, 2017 11:24 AM

To: Laroche, Matthew (USANYS) < MLaroche@usa.doj.gov>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: OFAC

Dondarski is free for a call next week if you all are interested in talking to OFAC (I'll be around

Monday and Tuesday, then leaving on vacation on Wednesday).

Garrett A. Lynch

Deputy Bureau Chief

Major Economic Crimes Bureau

New York County District Attorney's Office

(212) 335-4335

lynchg@dany.nyc.gov

From: <u>Laroche, Matthew (USANYS)</u>

To: <u>Lynch, Garrett</u>; <u>DeFilippis, Andrew (USANYS)</u>

Subject: RE: OFAC

Date: Friday, July 28, 2017 11:25:50 AM

Sounds good. I'm free until 4 or so and then again after 5:30.

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Friday, July 28, 2017 11:14 AM

To: Laroche, Matthew (USANYS); DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

Ok, Mike is free after 3:00 on Monday. Maybe I'll come down to you guys just to check in and grab

that ID.

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Thursday, July 27, 2017 6:18 PM

To: Lynch, Garrett < <u>LynchG@dany.nyc.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>Andrew.DeFilippis@usdoj.gov</u>>

Subject: RE: OFAC

Monday is good except for 10am and 4:30. I'm also fine scheduling Kaufman's guy for whenever is convenient in August. Maybe sometime during the week of August 21?

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Thursday, July 27, 2017 11:24 AM

To: Laroche, Matthew (USANYS) < <u>MLaroche@usa.doi.gov</u>>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: OFAC

Dondarski is free for a call next week if you all are interested in talking to OFAC (I'll be around

Monday and Tuesday, then leaving on vacation on Wednesday).

Garrett A. Lynch

Deputy Bureau Chief

Major Economic Crimes Bureau

New York County District Attorney's Office

(212) 335-4335

lynchg@dany.nyc.gov

From: Lynch, Garrett

To: Laroche, Matthew (USANYS); DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

Date: Friday, July 28, 2017 11:13:43 AM

Ok, Mike is free after 3:00 on Monday. Maybe I'll come down to you guys just to check in and grab that ID.

From: Laroche, Matthew (USANYS) [mailto:Matthew.Laroche@usdoj.gov]

Sent: Thursday, July 27, 2017 6:18 PM

To: Lynch, Garrett; DeFilippis, Andrew (USANYS)

Subject: RE: OFAC

Monday is good except for 10am and 4:30. I'm also fine scheduling Kaufman's guy for whenever is convenient in August. Maybe sometime during the week of August 21?

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Thursday, July 27, 2017 11:24 AM

To: Laroche, Matthew (USANYS) < MLaroche@usa.doj.gov>; DeFilippis, Andrew (USANYS)

<<u>ADeFilippis@usa.doj.gov</u>>

Subject: OFAC

Dondarski is free for a call next week if you all are interested in talking to OFAC (I'll be around Monday and Tuesday, then leaving on vacation on Wednesday).

Garrett A. Lynch
Deputy Bureau Chief

Major Economic Crimes Bureau

New York County District Attorney's Office

(212) 335-4335

lynchg@dany.nyc.gov

From: <u>Laroche, Matthew (USANYS)</u>

To: <u>Lynch, Garrett</u>; <u>DeFilippis, Andrew (USANYS)</u>

Subject: RE: OFAC

Date: Thursday, July 27, 2017 6:17:35 PM

Monday is good except for 10am and 4:30. I'm also fine scheduling Kaufman's guy for whenever is convenient in August. Maybe sometime during the week of August 21?

From: Lynch, Garrett [mailto:LynchG@dany.nyc.gov]

Sent: Thursday, July 27, 2017 11:24 AM

To: Laroche, Matthew (USANYS); DeFilippis, Andrew (USANYS)

Subject: OFAC

lynchg@dany.nyc.gov

Dondarski is free for a call next week if you all are interested in talking to OFAC (I'll be around Monday and Tuesday, then leaving on vacation on Wednesday).

Garrett A. Lynch
Deputy Bureau Chief
Major Economic Crimes Bureau
New York County District Attorney's Office
(212) 335-4335

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 206 of 296

From: Lynch, Garrett

To: Laroche, Matthew (USANYS); DeFilippis, Andrew (USANYS)

Subject: OFAC

Date: Thursday, July 27, 2017 11:24:12 AM

Dondarski is free for a call next week if you all are interested in talking to OFAC (I'll be around Monday and Tuesday, then leaving on vacation on Wednesday).

Garrett A. Lynch
Deputy Bureau Chief
Major Economic Crimes Bureau
New York County District Attorney's Office
(212) 335-4335
lynchg@dany.nyc.gov

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 48

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 208 of 296

 From:
 Crowley, Shawn (USANYS)

 To:
 DeFilippis, Andrew (USANYS)

 Cc:
 Bove, Emil (USANYS)

Subject: GX 411 (002).pdf

Date: Monday, March 9, 2020 11:47:52 AM

Attachments: GX 411 (002).pdf



NEW YORK BRANCH

Department of the Treasury Office of Foreign Assets Control 1500 Pennsylvania Avenue NW Washington DC 20220 Vinay Jepal
2 World Financial Center, New York, NY 10281-1050
Telephone (212) 266-7200
Fax (212) 266-7235
vinay jepal@commerzbank.com

June 16, 2011

Re: Information Sharing - Stratus International Contracting Company

Dear Sir/Madam:

Commerzbank AG, New York Branch (CBNY) would like to share the following information with OFAC. On April 20, 2011 CBNY's AML transaction monitoring system generated an alert, which involved a transaction for USD 29,442,967.57 value April 4, 2011.

The transaction was originated by Banco Del Tesoro, CA Banco Universal Caracas for its client BT / Fideicomiso / Fondo Chino Venezolano in Caracas, Venezuela. The beneficiary of the payment was Stratus International Contracting Company ("Stratus"), a client of Hyposwiss Privatbank AG, Zurich.

As per standard procedure, CBNY initiated a request for information to the remitting bank Banco Del Tesoro, CA Banco Universal Caracas, Venezuela to obtain details on both entities and their relationship. In the interim, CBNY conducted further due diligence and noted the following regarding Stratus from its website:

- Stratus was founded in 1978 in Tehran, Iran
- Stratus International specializes in providing contracting services to infrastructure projects such as roads, railways, dams, tunnels, airports and buildings.
- Stratus is presently working on a 7000 Apartment Unit "New Ojeda" Housing Development Project in Venezuela

On May 12, 2011, CBNY received a response from the bank in Caracas indicating the following:

- Stratus's physical address is Gardenya Plaza 5, K:3 D:3 (Floor 3, Suite3) 34758 Atasehir, Istanbul, Turkey
- Stratus is registered in Istanbul, Turkey (copy of the registration attached)
- Stratus provides construction services in Turkey, Dubai and Venezuela
- The purpose of the payment is for the construction of a 7000 apartment unit project "Proyecto Urbanismo Nueva Ciudad Fabricio Ojeda, in Cuidad Ojeda, Estado Zuila, Venezuela (same address as listed on Stratus' website)

Although Stratus is not listed as an SDN, and the payment does not indicate any direct involvement of Iran or with Iran, due to conflicting information between the website and the response forwarded by the bank in Caracas, CBNY believes it appropriate to share this information with OFAC since Stratus may be an Iranian Company.

Chairman of the Supervisory Board: Klaus-Peter Müller
Board of Managing Directors: Martin Blessing (Chairman).
Frank Annuscheit, Markus Beumer, Achim Kassow, Jochen Klösges,
Michael Reuther, Stefan Schmittmann, Ulrich Sieber, Eric Strutz, Martin Zielke

Commerzbank Aktiengesellschaft, Frankfurt am Main Registered Office: Frankfurt am Main Reg.No. 32000 VAT No. DE 114 103 514





NEW YORK BRANCH

Re: Information Sharing - Stratus International Contracting Company- Page 2

We have added Stratus into our sanctions filter to monitor any future payments. Please note that apart from this transaction, there have not been any other payments involving Stratus processed by CBNY to date.

The purpose of this letter is to report the good faith efforts of Commerzbank AG, New York Branch in complying with applicable OFAC requirements and voluntarily informing OFAC of any information received during its investigation into possible sanctions-related entities.

Should you have any further questions concerning this matter, please do not hesitate to contact the signatories below.

Respectfully,

Commerzbank AG New York Branch

Deepa Keswani

Head of AML/Anti-Fraud/Sanctions Compliance

Vinay Jepal

Sanctions Compliance Officer

Encis.

stratus intl payment

:LT Address :transaction type :input from

:COBAUS3XA :202 COVER bank tfr favour 3rd bank

:COBADEFF

COMMERZBANK AG FRANKFURT

HEAD OFFICE

32-36 NEUE MAINZERSTRASSE 60261 FRANKFURT GERMANY

:Validation Flag :COV}

{4: Text block:
 :20 /transaction reference number
 :21 /related reference :FAAS109400150500

:FAAS109400150500

:040411 USD 29,442,967.57 :32A/value date

:52A/ordering institution - BIC :COBADEFF

COMMERZBANK AG FRANKFURT AM MAIN

:57A/account with inst - BIC

:CHASUS33 JPMORGAN CHASE BANK, N.A.

NEW YORK, NY

:58A/beneficiary inst - BIC

:SHHBCHZZ HYPOSWISS PRIVATBANK AG, ZURICH

ZURICH

:50K/ordering customer

:/400887746602USD BT/ FIDEICOMISO / FONDO CHINO

VENEZOLANO. AV GUICAIPURO. URB EL ROSAL. TORRE BANCO DEL TESORO.

CARACAS - VENEZUELA.

:52A/ordering institution - BIC

: BDTEVECA BANCO DEL TESORO, C.A. BANCO

UNIVERSAL **CARACAS**

:59 /beneficiary customer

:/CH7708530519663100203

STRATUS INTERNATIONAL CONTRACTING

:70 /details of payment

:REF: DESEMBOLSO NRO. 386 FONDO CHINO VENEZOLANO. CODIGO NRO.

00579

:33B/amount

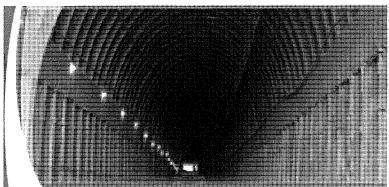
:USD 29,442,967.57}

/SWIFT/ Date:110404 Time:02:44:17 Entry

Info:1111/001781

nting Company | فارسی | Staff Login | Site Map | Hon

STRATUS International Contracting Company has been founded in 1978 in Tehran, Iran, with registered paid up share capital of RIs 100 billions. STRATUS provides contracting services to infrastructure projects such as Roads, Railways, Dams, Tunnels, Airports and Buildings. Since 1994, STRATUS has been the first pioneered company in exporting Engineering and Technical Services in Iran and received "Exemplary Exporters" of the year 1999 from his excellency Mr. president.



- STRATUS is an Engineering, Construction, Management and Contracting Company by specializing in the field of Building Construction, Road Works and Water Works.
- STRATUS has succeeded to recieve ISO 9001-2000 certificate for Quality Management System from MIC registered under UKAS, United Kingdom from 2004 which upgraded recently to ISO 9001-2008 in 2010 and intending to extend it by OHSAS 18001:2007. Read more...
- Our memberships:
 - Federation of Contractors of Islamic Countries (F.C.I.C.)

STRATUS is Graded in three major categories: Read more...

- Pakistan Engineering Council
- International Chamber of Commerce (I.C.C.)
- Iran UK Chamber of Commerce
- Iran Canada Chamber of Commerce Read more...

Road & Railway



Dam



Building

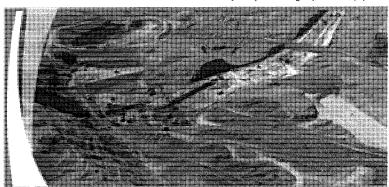


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Contact Us

STRATUS International Contracting Co.

Address: No.35, Golestan St., Iran Zamin Ave., Shahrake Ghods, Tehran, Iran.

Postal Code: 1465865187

Tell: (98) 21 8837 3100-6

Fax: (98) 21 8808 2882

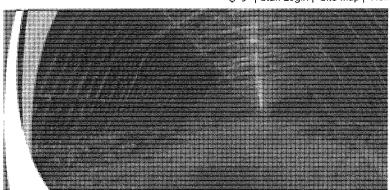
E-mail: stratus@stratusgc.com

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Branch Offices

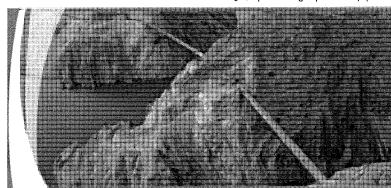
Middle East Iran Iraq **CIS** Kazakhstan South America Venezuela

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Sister Companies List



1.Samaneh Stratus (INVESTMENT CO.)



2.Iran Construction Investment Co.



3.Eghtesad - Novin Bank

4. Pishgaman Bazar Novin (BROKERAGE CO.)



5.Novin Insurance Co.



6.Pars Shahr Co.



7. Global Petro Tech CO.



8. Keyhan Tabadol Co.



9.Pars Hanza Aluminium CO.



10. Azarbaijan Industry Development Co.

11.Eghtesad Novin Investment CO.



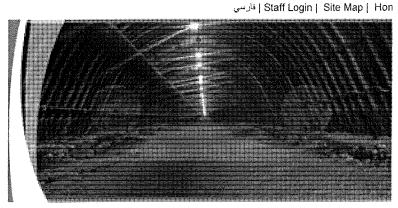
12.Samaneh Gostar Novin

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has been the first pioneered company in exporting Engineering and Technical Services in Iran and received **"Exemplary Exporters"** of the year 1999 from his excellency Mr.president.



7000 Units 'New Ojeda' Housing Development Project

Main Technical Features

Site Gross Area: 318 Hec. Concrete works: 520,000 m³

Net Construction Area: 850.000 m²
Water & Sewage network: 150 Km
Electrical network: 200 Km
Communication network: 220 Km

Gas network: 30 Km

Location

Ciudad Ojeda, Zulia State, Venezuela

Employer

Ducolsa 'Urban Development S.A'

Contract Duration

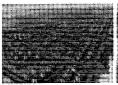
48 Months

Date of Award

September 2009

Status

[Under Construction]





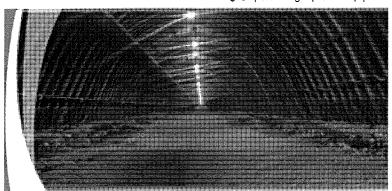


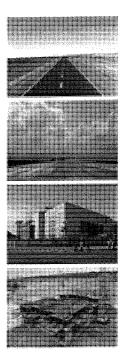
[Back to list]



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Dalbandin - Nokkundi Highway - Section III-B

Details >>

Socotra Airport

Details >>

Design & Construction of Parliament Building & Commercial Center in Djibouti City

Details >>

7000 Units "New Ojeda" Housing Development Project

Details >>

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(K A D I K Ö Y) 370857 - 2010

T.C. İSTANBUL Ticaret Sicil Memurluğu

SICIL TASDÍKNAMESÍ

Ticaret Ünvanı	STRATUS INTERNATIONAL CONTRACTING İNŞAAT VE TAAHHÜT ANONIM ŞİRKETI	
Sicil No.	751671	
Tescil Tarihi	22 / 10 / 2010	
İşletme Merkezinin Adresi (Şubenin tescilinde şubenin Adresi ile beraber.merkezin adresi de yazılır.)	GARDENYA PLAZA 5 K.3 D.3 ATAŞEHİR	
İşletmenin uğraştığı işler	Ana sözleşmesinde yazılı olan işler	
İşletme sahibinin hüviyeti (Hükmi şahıslarda, hükmi şahsın mahiyeti)	Anonim	
İşletme temsilcileri	38824643592 TC.No.lu CELAL TATLICIBAŞI	
Tasdiknamenin düzenlenme Tarih ve Sayısı	22 EKÎM 2010 - 39185	

RECAİ SÖKMEN İSTANBUL TİCARET SİCİLİ MEMURU YARDIMCISI United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 49

From: <u>DeFilippis</u>, Andrew (USANYS)

To: Bove, Emil (USANYS); Crowley, Shawn (USANYS)

Subject: FW:

Date: Monday, March 9, 2020 12:05:26 PM

Also just came across this one.

Andrew J. DeFilippis
Assistant United States Attorney
Southern District of New York
1 St. Andrew's Plaza
New York, NY 10007
(212) 637-2231

From: DeFilippis, Andrew (USANYS) <ADeFilippis@usa.doj.gov>

Sent: Monday, April 1, 2019 7:14 AM

To: Lynch, Garrett < Lynch G@dany.nyc.gov>

Subject: Re:

Thanks. Would you have time for call today or tomorrow with Reid/Brian to clarify their position re a possible resolution? Let me know some good times and I'll email them to propose something. Will also call you this morning re the motions.

On Mar 28, 2019, at 12:31 PM, Lynch, Garrett < Lynch G@dany.nyc.gov > wrote:

FYI – I just spoke to a guy I know who's the director of enforcement at OFAC to run by him the arguments they raise in their first motion about the applicability of the ITSR language (in effect at the time) to the conduct here. Confirmed the thoughts I had – we can chat whenever you guys have a chance.

Garrett A. Lynch
Deputy Bureau Chief
Major Economic Crimes Bureau
New York County District Attorney's Office
(212) 335-4335
lynchg@dany.nyc.gov

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United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 50

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 225 of 296

From: <u>DeFilippis</u>, Andrew (USANYS)

To: Bove, Emil (USANYS); Crowley, Shawn (USANYS)

Subject: Draft Declaration

Date: Monday, March 9, 2020 12:20:19 PM

Attachments: <u>Draft-Declaration.docx</u>

From approximately April 2017 through approximately May 2019, I was one of the Assistant United States Attorneys assigned to this case.

I have conducted a diligent review of my files (including, but not limited to, emails, hard copy correspondence, hard copy files, and notes) for any materials reflecting communications or correspondence between the prosecution team and the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") concerning the issues set forth in the document marked as Government Exhibit 411. I have located no such materials.

I do not recall conducting any communications with a representative of OFAC on this case. The aforementioned search of my files did identify eight email messages (on which I was copied) in which Special Assistant United States Attorney Garrett Lynch and United States Attorney Matthew Laroche discussed scheduling a potential call between our team and a representative of OFAC in July 2017. I do not recall, and the emails do not reflect, the intended subject of the call. It appears from the emails that Special Assistant United States Attorney Lynch made initial contact with OFAC regarding available times for such a call. It also appears from the emails that the call did not go forward at the tentatively scheduled time. I do not recall any subsequent call or communications with OFAC on this case.

I do not believe I engaged in any communications with OFAC regarding the disclosure to OFAC set forth in Government Exhibit 411. I am currently unaware of any efforts by OFAC to investigate, or take enforcement action against, the defendant and/or his companies, nor am I aware of any decision by OFAC to decline to do so.

I became aware during my involvement in this case that certain entities relevant to the charged conduct were previously designated by OFAC, but I do not recall any communications with OFAC on that issue.

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 51

From: <u>Birger, Laura (USANYS)</u>

To: <u>Crowley, Shawn (USANYS)</u>; <u>Bove, Emil (USANYS)</u>

Subject: RE:

Date: Monday, March 9, 2020 12:22:07 PM

OK. I know this is obvious, but these declarations will be scrutinized for inaccuracies. We must be accurate.

From: Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov>

Sent: Monday, March 9, 2020 12:19 PM

To: Birger, Laura (USANYS) <LBirger@usa.doj.gov>; Bove, Emil (USANYS) <EBove@usa.doj.gov>

Subject: RE:

Will do. We've spoken with each of the AUSAs on the case who are not in the courtroom (Denton, Laroche, Steph, Donaleski, and DeFilippis) and they're doing comprehensive searches of their files for any correspondence with or about OFAC. They're also working on draft declarations. We'll send you the transcript from this morning when we get it.

From: Birger, Laura (USANYS) < LBirger@usa.doj.gov>

Sent: Monday, March 09, 2020 12:16 PM

To: Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov >; Bove, Emil (USANYS) < EBove@usa.doj.gov >

Subject:

I know you are handling a million different things. But, please remember to keep me and Audrey informed on Sadr developments as the day proceeds. There is intense interest in each step that is being taken.

Laura Grossfield Birger Chief, Criminal Division United States Attorney's Office, SDNY (212) 637-1117 Laura.Birger@usdoj.gov United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 52

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 230 of 296

From:Crowley, Shawn (USANYS)To:Bove, Emil (USANYS)Subject:Draft-Declaration, sgc.docx

Date: Monday, March 9, 2020 12:35:32 PM

Attachments: <u>Draft-Declaration. sgc.docx</u>

From approximately April 2017 through approximately May 2019, I was one of the Assistant United States Attorneys assigned to this case.

I have conducted a <u>diligen comprehensivet</u> review of my files (including, but not limited to, emails, hard copy correspondence, hard copy files, and notes) for any materials reflecting communications or correspondence between the prosecution team and the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") concerning the issues set forth in the document marked as Government Exhibit 411. I have located no such materials.

I do not recall conducting any communications with a representative of OFAC on this case. The aforementioned search of my files did identify identified eight email messages (on which I was copied) in which Special Assistant United States Attorney Garrett Lynch and Assistant United States Attorney Matthew Laroche discussed scheduling a potential call between our team and a representative of OFAC in July 2017. I do not recall, and the emails do not reflect, the intended subject of the call. It appears from the emails that Special Assistant United States

AttorneyAUSA Lynch made initial contact with OFAC regarding available times for such a call. It also appears from the emails that the call did not go forward at the tentatively scheduled time. I do not recall any subsequent call or communications with OFAC on this case.

I do not believe I engaged in any communications with OFAC regarding the disclosure to OFAC set forth in Government Exhibit 411, or any other decision or action taken by OFAC regarding the defendant and/or his companies. I am currently unaware of any efforts by OFAC to investigate, or take enforcement action against, the defendant and/or his companies, nor am I aware of any decision by OFAC to decline to do so.

I became aware during my involvement in this case that certain entities relevant to the charged conduct were previously designated by OFAC, but I do not recall any communications with OFAC on that issue.

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 53

Exhibit 53. March 9, 2020 Text Messages With Co-Chief Crowley and AUSA Kim Beginning at Approximately 12:40 p.m.

Kim	Back on Brady arg	
Kim	Her qs aren't great	
Kim	Asking whether Heberlig understood our email as flagging that	
	the doc was new	
Kim	Order for all prosecutors and agents on case	
Crowley	Tell her we've already relayed to prosecutors and discussed w	
	OFAC	
Kim	Now Heberglig is talking about Fuenmayor as paid informant and	
	bombshell Brady	
Kim	They're going thru their files	
Kim	We did	
Kim	Heberlig is saying has serious concerns about DANY disclosures	
Kim	She wants any info from OFAc to our prosecution team about	
KIIII	Sadr and related entities/connections to Iran?	
Kim	She's now asking if our representation that we learned abt doc in	
KIIII	Jan 2020 if they understood that to includ[e] Garrett	
Kim	She's saying curative instruction or recall Ted Kim	
Crowley	We're here	
Kim	Reid saying but Kim said he didn't know	
Kim	Oh hah	

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 54

From: <u>Crowley, Shawn (USANYS)</u>

To: <u>Strauss, Audrey (USANYS)</u>; <u>Birger, Laura (USANYS)</u>

Cc: Bove, Emil (USANYS)

Subject: Fwd: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

Date: Monday, March 9, 2020 2:21:45 PM

Attachments: K39TSADE.pdf

ATT00001.htm

This is the transcript from this morning before Judge Nathan. As Laura knows, the AUSAs are scrubbing their files and drafting their declarations.

Begin forwarded message:

From: "DeLuca, Michael (USANYS) [Contractor]" < MDeLuca@usa.doj.gov>

Date: March 9, 2020 at 2:05:16 PM EDT

To: "Bove, Emil (USANYS)" <EBove@usa.doj.gov>, "Crowley, Shawn

(USANYS)" <SCrowley@usa.doj.gov>

Subject: FW: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224

(AJN)

From: Goretti Moya <gmoya@sdreporters.com>

Sent: Monday, March 9, 2020 2:05 PM

To: DeLuca, Michael (USANYS) [Contractor] < MDeLuca@usa.doj.gov> **Subject:** RE: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

From: DeLuca, Michael (USANYS) [Contractor] < Michael. DeLuca@usdoj.gov>

Sent: Monday, March 09, 2020 10:43 AM

To: Info < Info@sdreporters.com >; reporters < reporters@sdreporters.com >

Subject: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

Good morning — We have a time-sensitive request for this morning's transcript in the ongoing trial in front of Judge Nathan, US v. Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN). We are requesting a copy of this morning's transcript (from before the jury entered the courtroom) as soon as possible, and will pay any fees associated with the expedited request.

Could you please let me know when we would be able to get this? I'm sorry for the urgent request and I appreciate your help.

Thank you,

Case 1:18-cr-00224-AJN Document 400-4 Filed 02/22/21 Page 236 of 296

Michael

Michael DeLuca Paralegal, Terrorism & International Narcotics Unit U.S. Attorney's Office, SDNY Desk: (212) 637-2248

Cell: (646) 265-8172

	K39TSADE EXCE	-	
1 2	UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORKx		
3	UNITED STATES OF AMERICA,		
4	v.	18 CR 224 (AJN)	
5	ALI SADR HASHEMI NEJAD,		
6	Defendant.		
7		-x	
8		New York, N.Y. March 9, 2020 8:45 a.m.	
10			
11	Before: HON. ALISON J. NATHAN,		
12			
13		District Judge	
14	APP:	EARANCES	
15	GEOFFREY S. BERMAN		
16	United States Attorney for the Southern District of New York JANE KIM		
17	MICHAEL KROUSE GARRETT LYNCH		
18	Assistant United States Attorneys		
19	STEPTOE & JOHNSON Attorneys for Defendant		
20	REID WEINGARTEN BRIAN HEBERLIG NICHOLAS SILVERMAN		
21			
22			
23			
24			
25			

(Case called)

THE COURT: Good morning, counsel, good morning, Mr. Sadr.

We're getting started earlier in light of what developed over the weekend, but here we are. We have some amount of time we'll take. I think the immediate need is to deal with the late disclosure of GX411.

Who wants to begin?

MR. KROUSE: Your Honor, the government filed letters, the defense filed letters. I want to stress from the outset the government takes this very seriously. We made a mistake, we own that mistake, and it's an unfortunate situation. We acknowledge that, and it's our fault. So I want to put that out first.

I also want to stress that -- and I don't think the defense is saying otherwise, I think the Court understands that mistake was inadvertent entirely. Nothing was purposely withheld from the defense. There was no conversation about withholding anything from the defense. That's not what happened here. It was a mistake. And like I said, we're not minimizing anything, but that was an oversight, and we're very sorry to the Court and the defense for that oversight.

I also want to stress for the Court, each member of the prosecution team has gone through its files one more time to make sure there's nothing else like this, that this is the K39TSADE EXCERPT

only document that relates to the case that hasn't been turned over to defense, and we can make that affirmation to the Court.

This really was sort of an anomalous situation where DANY had a separate investigation into Commerzbank. That investigation into Commerzbank was for conduct that well preceded this case, but in the course of that investigation, Commerzbank turned over a number of documents to DANY, and in the course of that one of the documents that was found was this document, GX411, that did relate to this case.

The government had never seen that document before January of this year. It was sent to us by a member of our team, by Garrett Lynch, that was during the time that the government was going through a lot of evidence, was going through and figuring out --

THE COURT: Clarification, so I understand, because I understand Mr. Lynch is a special assistant --

MR. KROUSE: Yes, your Honor.

THE COURT: -- when you say we weren't aware of it before January, and it was sent to the team by Mr. Lynch, at what point is Mr. Lynch part of the team so that his awareness of it is relevant to what the team is aware of?

MR. KROUSE: Mr. Lynch is a SAUSA appointed to this team.

THE COURT: As of?

MR. KROUSE: I'm not sure, but before the case was

K39TSADE

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EXCERPT

charged, so for the entire relevant period he has been.

THE COURT: When you say we were not aware of it before January, is that a representation that Mr. Lynch was not aware of it before -- what was the date, January '20?

MR. KROUSE: That is not a representation, that Mr. Lynch was not aware of it.

> THE COURT: And when did Mr. Lynch become aware of it? MR. KROUSE: If I may have just a moment.

Mr. Lynch -- this is my understanding from prior conversations -- had seen the document before in the context of the Commerzbank investigation, later recalled that he had seen that document in the unrelated investigation, went and found the document, and sent it to the rest of the team in January of 2020.

THE COURT: Okay. And is the representation that you've checked and there's nothing else dependent on Mr. Lynch's recall after the fact as to what may be relevant, or there's been an independent analysis of the Commerzbank documents?

MR. KROUSE: Mr. Lynch went back over the weekend to his office and to the DANY offices and went through the file of the Commerzbank investigation. Most of that investigation, as I said, relates to conduct that well preceded this case, I believe it was 2002 to 2007 conduct, and so I think in an abundance of caution we have reviewed that. Commerzbank, also

in an abundance of caution, was producing a lot of documents to DANY.

I will say Commerzbank, in relation to conduct in this case, related to the single payment, so the payment that this GX411 relates to. So it's not a situation where Commerzbank had a large role in the conduct of this case and we would have an expectation that there would be a lot of other documents related to this case. It was just this single transaction. But we had made an independent review to make sure there's nothing else that needs to be turned over to the defense.

THE COURT: So for purposes -- there's the question of the timeframe with respect to this document and all of the issues that now are encompassed in its failed disclosure and then disclosure and representations about the disclosure. We need to deal with those.

We also need -- I need assurance, defense needs assurance, as to the certainty and the carefulness and the process by which the government has reviewed the potential relevant documents, because this has a bit of a tip-of-the-iceberg feeling to it, not only because of what appears to may be a lack of candor about it.

And so for timeline purposes with respect to this document, the team, including Mr. Lynch, has been part of the prosecution team for a period of time, was aware of this document from before the case was charged, but thought of it at

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MR. KROUSE: Yes, your Honor.

THE COURT: Of 2020.

MR. KROUSE: Yes, your Honor.

THE COURT: In thinking of it and realizing its potential relevance, that's the process that's been described so far for assessment at that point, emailed it to the other members of the team, and the team — the other members of the team, although Mr. Lynch is part of the team and remembers this document —

MR. KROUSE: Yes.

THE COURT: -- and emails it, but somehow at that point the whole team says, oh, we don't need to worry about it because it's already been turned over.

MR. KROUSE: I wouldn't take that last step as that was an affirmative decision by the team.

THE COURT: Mr. Lynch flagged it as something potentially new, right, from what you're saying?

MR. KROUSE: He hasn't flagged it as something new, he flagged it as this is another piece of evidence for -- as we're going through all the evidence, this is another good piece of evidence for the government.

Now again, the government made a mistake, we should have --

THE COURT: On its face, it's not a good piece of

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evidence for the government. 1 2 MR. KROUSE: Your Honor, we could address that. 3 THE COURT: We'll get to that. 4 MR. KROUSE: We can get to that. 5 THE COURT: I sat through trial for a week. understand the defense case, I think I understand the 6 7 government's case. So that's in the background here, because 8 part of the representation --9 We'll get to it. Let's do it a step at a time because 10 it's important, and precision is important. 11 MR. KROUSE: Yes, your Honor. 12 THE COURT: So I'm responding to what you said. 13 Mr. Lynch remembered the document, something about the 14 document -- something caused him to say oh, this might be 15 helpful to us, send it over. And the understanding at that point, "Hey, this might be helpful to us, do we need to 16 17 disclose it, " that thought doesn't happen? 18 MR. KROUSE: No, and let me address that directly and explain why. This was during a time when a lot of emails were 19 20 going around; this is a good piece of evidence, this is a good 21 piece of evidence, in the context of everything that had 22 already been disclosed in discovery. 23 THE COURT: Boy, have I heard this song before. 24 MR. KROUSE: Your Honor --

THE COURT: I'm just --

MR. KROUSE: If I may.

THE COURT: Fool me once. Go ahead.

MR. KROUSE: Your Honor, again, I don't think anyone is saying that this wasn't a mistake or that we shouldn't have --

THE COURT: I need to understand what happened.

MR. KROUSE: That's what I'm trying to do. We were going through the evidence, it was a painstaking process, there were a lot of documents, a lot of emails going around, this is a nice piece of evidence, this is a nice piece of evidence.

Mr. Lynch sent the email about what was later marked Government Exhibit 411: This is a nice piece of evidence.

In the course of those discussions, it didn't occur to the rest of the team that this particular piece of evidence wasn't like every other piece of evidence that was being discussed and had already been produced in the Rule 16 discovery.

We should have at that time --

THE COURT: How is that point consistent with the notion that Mr. Lynch remembered something that triggered him to retrieve this document and send it along?

Maybe I don't understand the process or the piece of that that you described, but they don't appear to be consistent statements.

MR. KROUSE: Respectfully, your Honor, if I could just

K39TSADE EXCERPT

1 explain.

THE COURT: Please.

MR. KROUSE: Mr. Lynch had been on the case for longer than the rest of the team. He had the institutional knowledge about the evidence. So it was frequent that Mr. Lynch would say, in the context of preparing for trial, this is a nice piece of evidence, this is a nice piece of evidence.

The government -- the rest of the team hadn't charged the case, wasn't involved in the discovery, didn't realize on its face when we got that email that it wasn't clear that this was somehow new, it was: This is a nice piece of evidence that we could use in our case.

I believe there was a short conversation between Mr. Lynch and Ms. Lake about the evidence. This kind of goes a little bit to why the government at the time, and even as recently as yesterday --

THE COURT: Sorry, I want to pause on that conversation. Is that by email?

MR. KROUSE: I believe it was a phone call conversation or in-person conversation --

 $\label{eq:phone call conversation between Mr. Lynch and $$\operatorname{Ms. Lake.}$$

THE COURT: And the nature of that conversation?

MR. KROUSE: About the document and how it fits in the rest of the case.

So on that point --

THE COURT: And if this is a question for Mr. Lynch, that's fine, but it's helpful to have one person providing the information.

The representation is that at that point Mr. Lynch's understanding was that this document had been produced to the defense?

Take your time if you need it, because I think that's important.

(Pause)

MR. KROUSE: The representation is that Mr. Lynch did not know at the time that it had not been produced to defense, that his understanding at that time in sending it, when he sent it to the government — or I don't mean to use "government" as somehow excluding Mr. Lynch, he's parts of the team, but sending it to the three AUSAs who were on the case with him, his understanding was it had been produced in discovery. It wasn't represented to us — and nobody realized at that time in January — that it hadn't been produced in discovery.

In the context of the exhibit fitting into the rest of the government's case, I think part of it is that those other documents haven't yet been introduced. Those will be introduced today. But the reason why the government viewed it as a wholly inculpatory document on its face was that there are emails between Commerzbank that find their way to Mr. Sadr

where Commerzbank is asking very pointed questions about the ownership structure and the beneficial owners of Stratus

Turkey. And Mr. Sadr then responds to those questions with what the government views as misrepresentations or omissions about those owners.

And so in the government's view, the emails were always going to come in as part of the government's case as part of the story of misrepresentations by Ms. Sadr, and we're still intending to introduce those emails today and to argue them to the jury.

So this document, Government Exhibit 411, closes the loop on that story but isn't a document that the government necessarily needed for its case in chief because it has the emails from Commerzbank to Mr. Sadr.

So on the face of the document -- and maybe this was just blinders, but from the government's perspective, this was an inculpatory document, it's Commerzbank asking questions about a payment that they processed and looking back and saying maybe that payment was to an Iranian entity, and going forward Commerzbank saying we'll put that entity on our list and filter for it.

And this sort of dovetails into the next part of what happened. Ms. Lake, over the weekend, went back into her emails and was looking through various documents and stumbled across this January email from Mr. Lynch, opened the document,

and in the context of how the trial developed, thought it would be helpful for the government to close the loop on that story of why Commerzbank was asking the questions of Mr. Sadr after

having processed the transactions. And seeing that document,

Ms. Lake proposed to the team that we produce it -- that we

introduce it at trial, mark it as a new exhibit.

THE COURT: In the course of this discussion was there any notion as to its potential use to the defense case, having yourselves sat through a week of trial, heard rulings on objections, heard the defendant's opening, in any of that discussion, right at the moment you're talking about, is there the thought: Whether we want to use this or not, it needs to be turned over?

MR. KROUSE: Candidly, your Honor, no, there was not that discussion. The discussion was solely about how inculpatory the government viewed the document.

Now in conversations — and the defense has been very available to talk about this, and the government does appreciate that, we had conversations about the document, and we now understand much better what the — how the defense would seek to use this document. And I think the correspondence that was sent to the Court reflects that the government was genuinely confused or unsure about how the document would be used — how it would be helpful to defense.

It's, in many, many ways, a very inculpatory document.

K39TSADE EXCERPT

I'm sure the defense would concede that. It's also, in the defense's theory, there is — it does support aspects of the defense theory. We addressed this a little bit in our letter, and I'm happy to address it further if the Court has questions about it.

THE COURT: We'll get to it. Continue on the timeline. So you have this moment of finding it in the emails --

MR. KROUSE: Yes.

THE COURT: -- thinking it's helpful to the government's case.

MR. KROUSE: Yes.

THE COURT: And then what, in terms of the realization of the failure to disclose it previously?

MR. KROUSE: Ms. Lake then, in an abundance of caution, reviewed and realized it hadn't been produced to the defense.

THE COURT: Did anything trigger that, or that was her normal process: I got to make sure, even though, boy, I know we turned over everything, I got to make sure this document was turned over.

That's normal standard process, or something triggered the second look?

MR. KROUSE: It wasn't anything in particular that triggered that other than what your Honor is saying, the fact

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that it was a newly marked exhibit, that it hadn't been marked before, it wasn't in our stipulation.

THE COURT: Step back. Newly marked because Ms. Lake asked -- you asked the paralegal to newly mark it?

MR. KROUSE: Ms. Lake asked the paralegal.

THE COURT: Not previously marked.

MR. KROUSE: Not a previously marked trial exhibit.

THE COURT: In the context of the discussions about —
the many discussions about the scope of the trial exhibits, and
the government was, out of an abundance of caution, going to
overmark —

MR. KROUSE: In the email context, yes, entirely, and we have done that.

THE COURT: So this is a different context because you thought a subpoena -- well, because it's a subpoena return?

MR. KROUSE: Because it's a bank record, which we understood to have been all obtained by subpoena.

And so --

THE COURT: And the other subpoena returns, the emails, for example, those had been premarked as trial exhibits and disclosed to the defense?

MR. KROUSE: Yes, and all of those banking documents, those financial documents that had been marked had been put into a stipulation as to their authenticity. And your Honor has seen a bunch of those banking exhibits introduced.

K39TSADE EXCERPT

So this is a bank exhibit that Ms. Lake came across and thought had we marked this before, realized we hadn't. She looked back and realized that it hadn't. She went into the Commerzbank folder in the shared drive for the documents that had been produced and realized those weren't among the documents.

THE COURT: This is Friday?

MR. KROUSE: Friday night is when she found it -- I don't know if it was Friday or Saturday morning that she realized it hadn't been.

THE COURT: But by Saturday morning, and before it was sent to the defense, the government is aware that it's not been premarked as a trial exhibit and never been previously disclosed to defense.

MR. KROUSE: Yes.

THE COURT: That gets us to communications. At that point it's sent via email from Ms. Lake to the defense.

MR. KROUSE: Yes.

THE COURT: In an email that says that we don't think Mr. Dubowitz will be able to testify.

MR. KROUSE: Yes.

THE COURT: Attached are the following, and there's 12 bullet points, includes 3500 unmaterial, exhibits, summary charts, and the like.

MR. KROUSE: Yes.

K39TSADE EXCERPT

1 THE COURT: It's number 3 in the bullet points --MR. KROUSE: Yes. 2 3 THE COURT: -- out of those 12 bullet points. 4 Bullet point 3: GX411, we intend to use this on 5 Monday. Will you stipulate to its authenticity? 6 MR. KROUSE: Yes. 7 THE COURT: You do not identify -- as far as I can tell, I'm happy to hear -- that this has not previously been 8 9 disclosed. 10 MR. KROUSE: That's correct. And that is a mistake, a 11 hundred percent. 12 The reason for that mistake, and not making excuses in 13 the least, we should have flagged in that email this is a new 14 document, period. THE COURT: At a minimum you should have flagged in 15 the email this is a new document. Responsibly, you should have 16 said this is a new email, here's what happened, we thought it 17 18 had been disclosed, we realized it, and here's why we made our mistake. 19 20 MR. KROUSE: Agreed. 21 THE COURT: I felt enormous relief, though you should 22 have done that, that you did the minimum. And that's what you 23 told me you did expressly last night, correct? 24 MR. KROUSE: Yes, your Honor.

THE COURT: And I felt that relief because the letter

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K39TSADE EXCERPT

to me asking precisely this question assured me you had done the minimum. I won't quote it, but you know what it says.

MR. KROUSE: I understand, your Honor.

THE COURT: That was false.

MR. KROUSE: I think it was imprecise, and here's why:

The government has had -- this is in the context of many, many
discussions with the defense. And again, we were disclosing
this is a newly marked exhibit, that we need an authenticity
stipulation to it, and we were intending to offer it.

Of course in the benefit of hindsight we should have done a lot more, but part of it was, at least in the government's mind -- this goes back to what we talked about earlier, in the government's mind at the time -- it had not entered the government's mind that this was potentially Brady material or that this was helpful to the defense.

It was solely in our mind, and maybe this was just trial blinders --

THE COURT: It is.

MR. KROUSE: I think that's fair, but in the government's mind, I can affirm as an officer of the Court that what we were thinking was: This is a good piece of evidence for the government. It's Commerzbank asking the questions that the defense has been crossing the other bank witnesses on. Why didn't they do these things? It's Commerzbank actually doing those things. It's Commerzbank then saying, based on that

investigation, we're no longer going to process transactions for this entity, and in the overall context of the evidence, no other transaction is processed by Commerzbank going forward.

So it is inculpatory, just to be clear, and it's a mistake. With the benefit of hindsight, if we had thought there was Brady material in this, if that had been in our heads, we would have structured that correspondence with the defense much, much differently. And for that, that's on us, we apologize for that.

The document was produced to the defense. They realized almost immediately, based on the chronology of events, that because this was a newly-marked exhibit, we're asking for authenticity, they went back and looked, I'm assuming, at the discovery productions and realized that it hadn't been produced. And they asked the question, and immediately the government responded with the truth.

We weren't trying to hide anything. We could have been more proactive in communicating that information, a hundred percent.

THE COURT: When you say -- and you're saying it again -- that you identified it as a newly-marked exhibit when you produced it in the email on Saturday around 4:00, what do you mean?

MR. KROUSE: That it's an exhibit that we're asking for a new stipulation of authenticity for. And government's

K39TSADE EXCERPT

view, wrongly or rightly, was that the defense would realize 1 2 that this was a new exhibit because we had never produced it 3 and never marked it and never asked for the authenticity for 4 it. 5 THE COURT: So bullet number 4, GX456, exact same sentence. GX456, we intend to offer this on Monday. 6 7 know if you're willing to stipulate to authenticity. 8 That, too, had never been produced to the defense? 9 MR. KROUSE: No. 10 THE COURT: Same for GX495A and B? 11 MR. KROUSE: No, this was the only document, your 12 Honor. 13 THE COURT: I'm sorry, then I misunderstood your answer on GX456, which is structured -- GX456 had been produced 14 15 to the defense before this weekend or no? 16 MR. KROUSE: Yes, it had. 17 THE COURT: Mr. Krouse --18 MR. KROUSE: Your Honor, I am not saying that that was 19 a good way to communicate the information. 20 THE COURT: I'm talking about what you said to the

THE COURT: I'm talking about what you said to the Court last night and what you are continuing to maintain in the face of evidence that it's false.

MR. KROUSE: Let me step back then.

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THE COURT: Because -- well, yes, let me ask you again: When this was disclosed to the defense Saturday around

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4:00, did you identify it as a newly-marked document? MR. KROUSE: No.

THE COURT: Okay. So when you said to me -- aside from what you said a moment ago, when you said to me in response to an order asking precisely this timeline -- because the vagueness with which it was described in the government's original letter was a blinking red light to me: intentionally not telling me what was happening in this process.

So I asked specifically, and you said the members of the team -- Ms. Lake found it in her emails, the members of the team discussed the document the next morning and confirmed it likely had not been produced to the defense previously. government promptly had a paralegal mark it as an exhibit and produced it to defense along with other exhibits of 3500 material. The government made clear this is -- I'm bolding in my tone -- the government made clear that GX411 was a newly marked exhibit, and that we intend to offer it, and asked the defense if they would stipulate to its authenticity. bolding, in my head.

MR. KROUSE: Yes, your Honor.

THE COURT: Defense counsel responded shortly after the government provided GX411 and asked how long the government had GX411 and why they never previously received it.

Sure, competent counsel saw a document that they

K39TSADE EXCERPT

thought helpful to them that the government slipped in on this 1 2 list without identifying it, as a government told me last 3 night, that it was a newly marked exhibit, never previously 4 disclosed, and asked what the heck it was. And you're acting 5 like you identified it as such, and you misrepresented to Court 6 last night. 7 MR. KROUSE: I apologize for the imprecision of the language. I'm not acting like this had never been produced to 8 9 the defense, I believe the Court asked -- and I apologize if 10 the language was imprecise in court or in the letter --11 THE COURT: Mr. Krouse, you understood my order last 12 night, the supplemental order was asking precisely this 13 question, did you not? 14 MR. KROUSE: Yes. THE COURT: And yet I will be frank, I don't 15 understand how this is not an OPR referral. 16 17 MR. KROUSE: Your Honor --18 THE COURT: Is your unit chief here? 19 MR. KROUSE: He is and she is, they're both here. 20 THE COURT: Have them come forward, please. 21 Would you enter your names. 22 MS. CROWLEY: Shawn Crowley. 23 MR. BOVE: Emil Bove. 24 THE COURT: Mr. Bove, have you looked at the course of

conduct that happened last night?

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MR.	BOVE:	We	have,	Judge.
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THE COURT: What do you intend to do about this?

MR. BOVE: So far we asked the team -- and you heard this part this morning -- to go back to the files and make sure there are no similar issues in this case.

Following the conclusion of this case — this has also been discussed and briefed up to the level of the U.S.

Attorney, there have been conversations with the chief of the criminal division as recently as this morning. So everyone is taking this extremely seriously.

At the conclusion of the trial we'll look back on this and see if there are any other similar issues in this trial or any other trials in the unit, sit down with the unit to discuss how this was handled.

So I don't think it mitigates -- I'm not intending it to mitigate what is discussed here now, but this is being taken extremely seriously.

THE COURT: As it should be and as it needs to be.

And as Mr. Berman, who I have an enormous respect for, has promised me with respect to, as you well know, the last trial I had with the office, a Brady issue that was not the day before the government rested, that was at the final pretrial conference, and we delayed it as a result.

The disclosure issue is a problem, and what would allow me to get to a comfortable place on it is the

representations from the lawyers from the office that they have served that they're confident that there's nothing else. And it is hard, in light of the misrepresentation to the Court last night, to accept that. That's the problem.

MR. BOVE: I understand your point, Judge. We apologize. We take this seriously.

I do think that this arises from a lack of precision, as Mr. Krouse said, this morning as opposed to an intentional issue. I'm not sure that that — that is not going to address the concerns that you have, nor should it, but I think the inadvertence is relevant as you analyze the situation, and that is what you have here.

I think the point being discussed now about the language in that letter last night -- Ms. Crowley and I reviewed that letter in realtime before it was filed -- our understanding in submitting that language to your Honor was that this clearly marked language that has been addressed here this morning related to the fact that the document had been marked as a government exhibit with a yellow government sticker. That is what we intended to convey with that. Again, the language should have been more precise, and it has been -- and you pointed out exactly why, and it was an error. I think that was the intent of the language, we're correcting it now, and I don't think there's much more for us to do on that point other than to apologize for that error.

THE COURT: I think that's right. In light of the order I put out seeking information on this precise timeline, in light of the fact that there were other exhibits that had been previously disclosed, that were indicated in precisely the same way in the transmittal email, it's very difficult to see this as anything other than maybe "blinders" is the right word, but it's blinders to the point of misrepresentation, and it's deeply concerning. And we will, aside from the what's happening in this trial, address it.

My concern is the tip-of-the-iceberg concern. What else is there? And I'm sure that's the defense's concern as well. For me to be able to have confidence, credibility with respect to this is important, and you don't have it right now.

So Mr. Bove, Ms. Crowley, this will be addressed no matter what the resolution is with respect to case. I don't think I'm having blinders on about this, I'm not coming to any determinative conclusions yet, but it's hard to understand this to be anything other than a misrepresentation.

Thank you.

And with respect to how to handle this document, I'm going to hear from the defense.

MR. KROUSE: Thank you, your Honor.

THE COURT: Mr. Weingarten. The request is for a curative instruction, that you will seek to admit, that is your desire?

MR. WEINGARTEN: Could I make a preliminary observation?

THE COURT: Sure.

MR. WEINGARTEN: I think the most useful way is to do the chronology as you did. So we get it at 4:00 on Saturday. Yes, we're shocked. We allow for the possibility of mistakes were made. That happens.

We get the government's response saying it's not exculpatory. We think that's ridiculous, but we say fine, and we sort of continue along. It is a hundred percent clear to me that if I had that document, and I should have, my opening would have been different and my cross-examination of the OFAC guy would have been very, very different. Just to emphasize that, the government's opening was: We tricked OFAC. OFAC couldn't stop this until \$115 million passed, an elaborate scheme to trick OFAC. Obviously, if I had that document and OFAC knew the first dollar payment of \$29 million, that's a huge point for us.

But here's the part that you've not yet addressed that really troubles us, the issue is: Did the government, in the course of this investigation, ask OFAC what they did? We never received information about that. It is against human nature for prosecutors like the prosecutors to my left not going to a sister government agency and asking them if they investigated the case, particularly when they have Government Exhibit 411.

K39TSADE EXCERPT

Obviously, the first dollar payment, \$29 million, was sent.

What did they do with it?

THE COURT: Count One charges conspiracy to defraud the United States by interfering and obstructing OFAC.

MR. WEINGARTEN: That's exactly right.

So Mr. Kim is on the stand and I'm crossing him, and I asked him those question. And you may recall — I didn't have 411, so I had no idea about this, but I did know about the \$6,000 payment to the Persian guy who testified, Mr. Kazerani. You may recall a \$6,000 check or payment was stopped, and in the government exhibit it makes reference to the fact this went to OFAC.

So when Kim was on the stand I asked him about that, and I had a funny feeling when I was standing here, and then I read the testimony, and if I may just make reference to it briefly, so I say to Kim:

Did it come to your attention that there was an allegation made relating to anything having to do with this case?

And he said: Not until I got instruction to get involved with this.

So to your knowledge, this matter was never investigated by OFAC, correct?

Objection, your Honor.

Overruled.

1	In my knowledge, no.		
2	And I go: To your knowledge, was there ever a		
3	referral made by JP Morgan to OFAC relating to this case?		
4	In my knowledge, no.		
5	Then I ask him: How long have you been working on		
6	this case?		
7	He goes: I started to work with the prosecutors from		
8	the end of February, like twelve months, six or seven meetings.		
9	I submit it's impossible for me to believe that the		
10	subject of what OFAC did when they received information		
11	relating to my client did not come up in conversations between		
12	competent prosecutors and OFAC.		
13	But it continues. During that period of time, it		
14	never came to your attention that OFAC had received a referral		
15	from JP Morgan that has to do with this case, is that fair?		
16	And he goes: I cannot say that.		
17	I go: Well, is it true or is it not true?		
18	He goes: I don't know.		
19	Question: So you have no knowledge that that		
20	occurred, right, no one has brought that to your attention?		
21	Not to my attention.		
22	Well, to OFAC's attention.		
23	That I don't know.		
24	So the answer is no?		

That I don't know.

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The point is I had a gut at the time that there had been relationships on this particular subject between OFAC and the U.S. Attorney's Office that I didn't know.

Okay. So now we have the correspondence from the government about this issue. And, of course, we read it with great attention, and they say — and I think the language is important, so heaven knows I don't want to misquote, this is on page 2 of their letter to you on March 8: The government is currently seeking to confirm whether OFAC took any action based on Bank 1's disclosure, and is willing to stipulate that OFAC did not take action against Bank 1, the Stratus entities, or the defendant.

I'm not saying that's a cute answer, but that's not an answer saying we never had any business with OFAC, we had no idea.

If in fact -- I think here's the deal, here's the real deal on this matter: If in fact they dealt with OFAC and they learned that there was a declamation where OFAC did nothing and they didn't share with us that point, and then they opened the way they did and they elicited the information from Mr. Kim that they elicited, we are in mistrial with prejudice territory.

THE COURT: What's the application?

MR. WEINGARTEN: That's my application. I would like to know -- I would like for them to stand up and say -- if they

say, "Look, maybe we're not as great as everybody thinks we are, we just missed that, we didn't care whether or not OFAC actually did anything even after they got a letter from Commerzbank saying \$29 million went to this potentially Iranian company, maybe we just weren't interested," and that's just the truth, then we have an application for a stipulation that I will submit to Court.

But if they actually knew that OFAC did nothing, behaved the way they behaved in this Court, we are in mistrial with prejudice territory.

THE COURT: All right. Mr. Krouse.

MR. KROUSE: Yes, your Honor, I can address that point. Mr. Kim -- just factually, Mr. Kim, his answer was February of this year when the government started preparing him as an expert witness. He wasn't the OFAC person, to the extent there was an OFAC person dealing with this case, he was called as an expert witness to testify about OFAC general processes and procedures.

The government's understanding has always been that OFAC did do nothing in this case for the conduct that's being charged. There was no OFAC finding, there was no is investigation.

Now, of course, with this letter we are asking that question, but again, there is nothing willful about what happened here. The government learned about this, or members

of the team were informed about -- I can only speak for myself and the rest of the team here -- about this letter to OFAC from Commerzbank in January of 2020.

THE COURT: No, that's not true, because the team includes Mr. Lynch.

MR. KROUSE: Yes, so Mr. Lynch also. But my understanding is there's never been any disclosure from OFAC — and we're running this down, we're talking to them — that they did anything with this letter, that there is any investigation open or anything like that.

And so we are happy, once we confirm that, to stipulate to that point. And if the defense introduces this letter along with the stipulation, they can — they are in a position, I think powerfully, to argue that you heard that Commerzbank sent this referral or sent this letter to OFAC and they did nothing, you can infer from that that this was conduct that OFAC didn't care about.

But there isn't any --

THE COURT: And that does appear to be information the team has had in its possession for a date unspecified but for a long period of time.

MR. KROUSE: The letter, yes, and the fact that OFAC did nothing I think the defense has known for a period of time as well.

MR. WEINGARTEN: That's just not true.

MR. KROUSE: There's nothing in the discovery that indicates that they did anything.

THE COURT: Did the government, anyone on the team, inquire of OFAC as to what they did upon learning?

MR. KROUSE: No. We have now. Now that we understand the potentially exculpatory aspect of this letter from Commerzbank, we have asked that question. We haven't received an answer yet since it occurred over the weekend, but our strong suspicion is, as OFAC has — that OFAC did nothing with this letter. So once we confirm that, we will be in a position to stipulate to that fact.

THE COURT: Mr. Weingarten.

MR. WEINGARTEN: That's not enough. There are other prosecutors on this case. It is inconceivable to us that there was never occasions in the years of this investigation that OFAC wasn't inquired about what they did and didn't do in reference to my client and the companies that you are familiar with. We want declarations from every prosecutor who worked on this case. If they're incompetent enough to not make those inquiries, I will live with that, but I don't believe it.

THE COURT: I will grant that application.

So we have to proceed now. I have all my jurors.

This is not resolved. I think the question is: Can we proceed with Peri and the documents and continue to deal with this?

MR. WEINGARTEN: We're capable of finishing the

government's case, if that's the Court's wish. We had 1 2

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resolved, before this nightmare, that we were going to put the client on, and we're prepared to do that. We think this is a huge issue, and we think this really has the potential to end this trial.

I think when all the prosecutors are guizzed about this, including members of the district attorney's office and the prosecutors who worked on this case before, there is no chance that there's not going to be a positive response to the Court that they made inquiry. There is no chance in the world. If they told us, it would have been profoundly exculpatory information. They opened completely inconsistent with that and elicited information from the OFAC guy completely inconsistent with that.

This case should be dismissed with prejudice. that's where we're going to end up. We would respectfully request that the prosecutors are required to make presentations to you by the end of the day, and if they pass muster, we'll be prepared to put the client on tomorrow.

THE COURT: There are many ways to cure problems, and we'll get to curing the problem when we have all of the information. We don't have all the information yet, but we'll get it, and then the question of cure, which may include things like recalling Kim or otherwise, there are possibilities that we have not yet explored, so we're not anywhere close to there

1 | yet.

As I said, a problem in this is the Court's specific concern as to the credibility in light of what additionally occurred last night and in the nature in which this late disclosure was noticed. So it concerns me, clearly.

The immediate question is: Can we proceed with the remainder of the government's case in light of lack of resolution, and then before requiring the defense to proceed with its case, continue to explore this?

MR. WEINGARTEN: Okay, that's fine, your Honor.

THE COURT: Okay.

(Continued on next page)

United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 55

 From:
 Lynch, Garrett

 To:
 Bove, Emil (USANYS)

 Subject:
 RE: Time Sensitive Question

 Date:
 Monday, March 9, 2020 2:54:59 PM

That's fine. And sorry for any confusion in my wording – I obviously meant consistency in formatting, not substance.

The DANY people are scattered all over. We've spoken to all but one. It may be challenging to get signed declarations from each (one is in Ireland), so we may want to think about whether I can attest that I spoke to people.

What's your direct dial? My desk is 212-335-4335.

From: Bove, Emil (USANYS) [mailto:Emil.Bove@usdoj.gov]

Sent: Monday, March 9, 2020 2:52 PM **To:** Lynch, Garrett <LynchG@dany.nyc.gov>

Subject: RE: Time Sensitive Question

Let's talk before anyone puts pen to paper. I'm reading this morning's transcript now. Plan on 330 if that's ok.

From: Lynch, Garrett < LynchG@dany.nyc.gov>

Sent: Monday, March 9, 2020 1:58 PM

To: Bove, Emil (USANYS) < EBove@usa.doj.gov>

Subject: RE: Time Sensitive Question

Emil, can you send me your format for a declaration/affirmation so we have folks here submit consistent documents? Thanks.

From: Bove, Emil (USANYS) [mailto:Emil.Bove@usdoj.gov]

Sent: Monday, March 9, 2020 10:25 AM

To: Kim, Jane (USANYS) 4 < <u>Jane.Kim@usdoj.gov</u>>

Cc: Kaveh.Miremadi@treasury.gov; MariaHelene.VanWagenberg@treasury.gov;

Jacqueline.Brewer@treasury.gov; Lake, Stephanie (USANYS) < Stephanie.Lake@usdoj.gov>; Krouse,

Michael (USANYS) < Michael.Krouse@usdoj.gov>; Lynch, Garrett < LynchG@dany.nyc.gov>; Lynch,

Garrett (USANYS) [Contractor] < Garrett.Lynch@usdoj.gov">Garrett.Lynch@usdoj.gov; Crowley, Shawn (USANYS)

<<u>Shawn.Crowley@usdoj.gov</u>>

Subject: Re: Time Sensitive Question

Hi Kaveh, what number can we reach you at?

On Mar 9, 2020, at 10:04 AM, Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>> wrote:

I don't. I'm adding my Chiefs to this chain.

On Mar 9, 2020, at 9:23 AM, "Kaveh.Miremadi@treasury.gov" < Kaveh.Miremadi@treasury.gov> wrote:

Hi Jane,

Do you know who or what division in OFAC this letter was sent to? I'm searching our records now. We may not be able to get you a comprehensive answer this morning.

Kaveh

From: Kim, Jane (USANYS) 4 < <u>Jane.Kim@usdoj.gov</u>>

Sent: Sunday, March 8, 2020 5:58 PM

To: Miremadi, Kaveh <<u>Kaveh.Miremadi@treasury.gov</u>>; Van Wagenberg, Maria-Helene <<u>MariaHelene.VanWagenberg@treasury.gov</u>>; Brewer, Jacqueline <<u>Jacqueline.Brewer@treasury.gov</u>>

Cc: Lake, Stephanie (USANYS) < Stephanie.Lake@usdoj.gov>; Krouse, Michael (USANYS) < Michael.Krouse@usdoj.gov>; Lynch, Garrett < LynchG@dany.nyc.gov>; Lynch, Garrett (USANYS) [Contractor] < Garrett.Lynch@usdoj.gov>

Subject: Time Sensitive Question

** Caution: External email. Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Kaveh, Maria, and Jacqui:

I'm attaching a letter dated June 16, 2011, from Commerzbank to OFAC concerning a specific payment. Could you please let us know what actions OFAC took in response to this letter? We need to update the Court on this issue tomorrow morning, so any information would be hugely appreciated.

Thank you in advance, Jane

Jane Kim
Assistant United States Attorney
Southern District of New York
One St. Andrew's Plaza

New York, New York 10007 Phone: (212) 637-2038 Email: jane.kim@usdoj.gov

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United States v. Sadr, No. 18 Cr. 224 (AJN)

Exhibits to the October 16, 2020 Declaration of Emil J. Bove III

Exhibit 56

From: <u>Crowley, Shawn (USANYS)</u>

To: Strauss, Audrey (USANYS); Bove, Emil (USANYS)

Cc: Birger, Laura (USANYS)

Subject: RE: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

Date: Monday, March 9, 2020 3:24:14 PM

Attachments: <u>127126528741.pdf</u>

[280-1] Def resp re brady.pdf

Thanks. Attaching the email chain in which we produce GX 411 (Saturday at 4:04 p.m.) as well as the letter we filed with Judge Nathan in which we represent that we "made clear that GX 411 was a newly marked exhibit and that we intended to offer it."

From: Strauss, Audrey (USANYS) <AStrauss@usa.doj.gov>

Sent: Monday, March 09, 2020 3:17 PM

To: Crowley, Shawn (USANYS) <SCrowley@usa.doj.gov>; Bove, Emil (USANYS) <EBove@usa.doj.gov>

Cc: Birger, Laura (USANYS) <LBirger@usa.doj.gov>

Subject: RE: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

I am trying to review this transcript but I think I am missing a document--- our letter to the defense that the judge views as not fully candid.

Would you pls send?

Thanks.

From: Crowley, Shawn (USANYS) < SCrowley@usa.doj.gov>

Sent: Monday, March 9, 2020 2:22 PM

To: Strauss, Audrey (USANYS) < <u>AStrauss@usa.doj.gov</u>>; Birger, Laura (USANYS)

<<u>LBirger@usa.doj.gov</u>>

Cc: Bove, Emil (USANYS) < EBove@usa.doj.gov>

Subject: Fwd: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

This is the transcript from this morning before Judge Nathan. As Laura knows, the AUSAs are scrubbing their files and drafting their declarations.

Begin forwarded message:

From: "DeLuca, Michael (USANYS) [Contractor]" < MDeLuca@usa.doj.gov>

Date: March 9, 2020 at 2:05:16 PM EDT

To: "Bove, Emil (USANYS)" < EBove@usa.doj.gov>, "Crowley, Shawn (USANYS)"

<<u>SCrowley@usa.doj.gov</u>>

Subject: FW: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

From: Goretti Moya <gmoya@sdreporters.com>

Sent: Monday, March 9, 2020 2:05 PM

To: DeLuca, Michael (USANYS) [Contractor] < <u>MDeLuca@usa.doj.gov</u>> **Subject:** RE: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

From: DeLuca, Michael (USANYS) [Contractor] < Michael.DeLuca@usdoj.gov

Sent: Monday, March 09, 2020 10:43 AM

To: Info < !nfo@sdreporters.com>; reporters reporters@sdreporters.com>

Subject: Transcript - Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN)

Good morning – We have a time-sensitive request for this morning's transcript in the ongoing trial in front of Judge Nathan, US v. Ali Sadr Hashemi Nejad, Case No. 18-cr-224 (AJN). We are requesting a copy of this morning's transcript (from before the jury entered the courtroom) as soon as possible, and will pay any fees associated with the expedited request.

Could you please let me know when we would be able to get this? I'm sorry for the urgent request and I appreciate your help.

Thank you, Michael

Michael DeLuca Paralegal, Terrorism & International Narcotics Unit U.S. Attorney's Office, SDNY Desk: (212) 637-2248

Cell: (646) 265-8172

U.S. Department of Justice

United States Attorney Southern District of New York

The Silvio J. Mollo Building One Saint Andrew's Plaza New York, New York 10007

March 8, 2020

FILED BY ECF

The Honorable Alison J. Nathan United States District Judge Southern District of New York United States Courthouse 40 Foley Square, Courtroom 1306 New York, New York 10007

Re: United States v. Ali Sadr Hashemi Nejad, 18 Cr. 224 (AJN)

Dear Judge Nathan:

The Court writes in response to the Court's order from 9:00 this evening. The Government apologizes for the lack of clarity in its prior email.

The Government found GX 411 in its emails on Friday night, looked at the Bank-1 subpoena production, and did not find it. The members of the team discussed the document the next morning and confirmed that it likely had not been produced to the defense previously. The Government promptly had a paralegal mark it as an exhibit and produced it to the defense along with other exhibits and 3500 materials. The Government made clear that GX 411 was a newly marked exhibit and that we intended to offer it, and asked the defense if they would stipulate to authenticity. Defense counsel responded shortly after the Government provided GX 411 and asked how long the Government had GX 411, and why they had not previously received it. The Government responded and explained that we had been aware of the letter since mid-January, and that, at the time, the Government had mistakenly believed it was part of the discovery in the case.

When SAUSA Lynch sent what is now GX 411 to the AUSAs in the case in January, the AUSAs assumed that this was a document that came from this case (specifically, the subpoena to Bank-1), and that it was therefore a document that had been previously produced to the defense as part of the Rule 16 discovery. This was an incorrect assumption. The document in fact was

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The Honorable Alison J. Nathan, U.S.D.J. March 8, 2020 Page 2

obtained in an unrelated DANY investigation and was not provided to this Office before January 2020.

Respectfully submitted,

GEOFFREY S. BERMAN United States Attorney

By: _____/s/

Jane Kim / Michael Krouse / Stephanie Lake Assistant United States Attorneys Garrett Lynch Special Assistant United States Attorney (212) 637-2038 / 2279 / 1066

cc: Defense Counsel (by ECF)

Exhibit B

From: Silverman, Nicholas

Sent: Sunday, March 8, 2020 1:36 PM

To: Kim, Jane (USANYS) 4; Heberlig, Brian; Lake, Stephanie (USANYS); Weingarten, Reid

Cc: Krouse, Michael (USANYS); Lynch, Garrett (USANYS) [Contractor]; Milione, Shawn (USANYS)

[Contractor]

Subject: RE: U.S. v. Sadr

Attachments: 092-1 2019-02-25 Pretrial Mem 6 - Exhibit A-c2.pdf

Counsel:

- (1) Are there any other documents in the government's possession that have not been produced?
- (2) Is there any other *Brady* information in the government's possession that has not been produced?
- (3) Is there any information in the government's possession, custody, or control showing OFAC's response to this letter? This is subject to production under *Giglio* and/or *Napue* because it would at a minimum undermine Ted Kim's testimony (A) that to his knowledge, nothing relating to this matter was investigated by OFAC, (B) that "it matters a lot" if Iranian involvement in a transaction is concealed, and (C) that hiding "Iranian connections ... would make it very difficult for me to do my job."
- (4) As we have said, our requests for *Brady* and *Giglio* are continuing in nature. I have attached our September 2018 letter in case you want a non-exclusive list of examples of the type of information covered by *Brady* and *Giglio* in this case. Obviously, any information contrary to government witness testimony would be another example.
- (5) Regarding the authenticity of GX 411, we stipulate to authenticity.
- (6) GX 704 Please let us know what modifications have been made.
- (7) GX 495A, 495B What is the relevance of Sadr having bank accounts at HSBX from January 2010 through October 2013?
- (8) GX 456 We are reviewing and anticipate stipulating to authenticity.
- (9) GX 705A & 705B We are reviewing.
- (10) GX 2304A Subject to our continuing objection (which we understand to have been overruled), no further objection.

Nicholas P. Silverman

Associate

nsilverman@steptoe.com

Steptoe

+1 202 429 8096 direct

Steptoe & Johnson LLP

+1 617 595 6559 mobile 1330 Connecticut Avenue, NW

+1 202 429 3902 fax Washington, DC 20036

www.steptoe.com

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From: Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov>

Sent: Sunday, March 8, 2020 9:41 AM

To: Heberlig, Brian <BHeberlig@steptoe.com>; Lake, Stephanie (USANYS) <Stephanie.Lake@usdoj.gov>; Weingarten, Reid <RWeingarten@steptoe.com>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) <Michael.Krouse@usdoj.gov>; Lynch, Garrett (USANYS) [Contractor] <Garrett.Lynch@usdoj.gov>; Milione, Shawn (USANYS) [Contractor] <Shawn.Milione@usdoj.gov>

Subject: RE: U.S. v. Sadr

Brian, Reid, and Nick:

As I explained in my last email, when we first saw the document in mid-January, we thought it had been part of Commerzbank's subpoena return and had been produced. We didn't think it would be necessary to use given our other evidence about that payment. Given some of the arguments you made on Friday, we decided that we did want to introduce it at trial.

Again, we don't see this document as exculpatory, as we would like to offer it tomorrow. Can you please let us know your position on an authenticity stipulation for this document and the other bank records we sent yesterday, as well as whether you have any issues with the summary charts?

Thanks, Jane

From: Heberlig, Brian <BHeberlig@steptoe.com>

Sent: Saturday, March 7, 2020 10:09 PM

To: Kim, Jane (USANYS) 4 < JKim4@usa.doj.gov>; Lake, Stephanie (USANYS) < SLake@usa.doj.gov>; Weingarten, Reid < RWeingarten@steptoe.com>; Silverman, Nicholas < nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) <MKrouse@usa.doj.gov>; Lynch, Garrett (USANYS) [Contractor] <GLynch@usa.doj.gov>;

Milione, Shawn (USANYS) [Contractor] <SMilione@usa.doj.gov>

Subject: RE: U.S. v. Sadr

If you have been aware of the letter since mid-January, why wasn't it on the government's pretrial exhibit list instead of appearing the day before the government rests its case? The exculpatory nature of the exhibit is self-evident.

From: Kim, Jane (USANYS) 4 < <u>Jane.Kim@usdoj.gov</u>>

Sent: Saturday, March 7, 2020 5:36 PM

To: Heberlig, Brian BHeberlig@steptoe.com; Lake, Stephanie (USANYS) Stephanie.Lake@usdoj.gov; Weingarten,

Reid <RWeingarten@steptoe.com>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) < Michael.Krouse@usdoj.gov">Michael.Krouse@usdoj.gov; Lynch, Garrett (USANYS) [Contractor] < Shawn.Milione@usdoj.gov

Subject: RE: U.S. v. Sadr

Brian,

We do not agree with your characterization of GX 430, 431, 432, or 411 as *Brady*. These are all exhibits the Government has introduced or is seeking to introduce in our case. Perhaps you can explain how it is you think GX 411 is helpful to your case.

In any event, we have been aware of the letter since mid-January. We thought it was part of the Commerzbank subpoena return that was produced in discovery. We now understand that it came from an unrelated DANY investigation, and therefore was not in the Commerzbank subpoena return.

It is not clear to us how this document would have been relevant to the OFAC witness's testimony.

Jane

From: Heberlig, Brian < BHeberlig@steptoe.com>

Sent: Saturday, March 7, 2020 4:57 PM

To: Lake, Stephanie (USANYS) < <u>SLake@usa.doj.gov</u>>; Weingarten, Reid < <u>RWeingarten@steptoe.com</u>>; Silverman, Nicholas < nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) < MKrouse@usa.doj.gov">MKrouse@usa.doj.gov; Kim, Jane (USANYS) 4 < MKrouse@usa.doj.gov; Lynch, Garrett (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MIIIone, Shawn (USANYS) [Contractor] < MKim4@usa.doj.gov)

Subject: RE: U.S. v. Sadr

We request immediate disclosure of (1) where GX411 came from, (2) how long it has been in the government's possession, (3) why we are only receiving it today. This is the second episode—along with GX430, GX431, and GX432—of the government producing fundamentally exculpatory documents mid-trial. In this instance, the document was produced after the government's OFAC witness, who would have been subject to cross-examination on this document. Provide this information by 6 pm or we will see the intervention of the Court.

From: Lake, Stephanie (USANYS) < Stephanie.Lake@usdoj.gov>

Sent: Saturday, March 7, 2020 4:24 PM

To: Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Silverman, Nicholas <nsilverman@steptoe.com>

Cc: Krouse, Michael (USANYS) < Michael.Krouse@usdoj.gov">Michael.Krouse@usdoj.gov; Kim, Jane (USANYS) 4 < Jane.Kim@usdoj.gov; Lynch, Garrett (USANYS) [Contractor] < Garrett.Lynch@usdoj.gov; Milione, Shawn (USANYS) [Contractor]

<Shawn.Milione@usdoj.gov>

Subject: RE: U.S. v. Sadr

Counsel,

We attempted to send you a number of attachments, which will not go through without encryption. It looks like Steptoe's servers are blocking the encrypted email. Shawn will upload the files to the link he has been using. The descriptions are below.

Stephanie

From: Lake, Stephanie (USANYS)

Sent: Saturday, March 07, 2020 4:04 PM

To: Weingarten, Reid <<u>RWeingarten@steptoe.com</u>>; Heberlig, Brian <<u>BHeberlig@steptoe.com</u>>; Silverman, Nicholas <<u>nsilverman@steptoe.com</u>>

Cc: Krouse, Michael (USANYS) < <u>MKrouse@usa.doj.gov</u>>; Kim, Jane (USANYS) 4 < <u>JKim4@usa.doj.gov</u>>; Lynch, Garrett (USANYS) [Contractor] < <u>GLynch@usa.doj.gov</u>>; Milione, Shawn (USANYS) [Contractor] < <u>SMilione@usa.doj.gov</u>> **Subject:** U.S. v. Sadr

Counsel,

Mr. Dubowitz is still very ill. As a result, we do not intend to call him as a witness in our case-in-chief. It's possible that, depending on the defense case, we will call him as a rebuttal witness.

In addition, we've attached the following documents:

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- Updated GX 2284D there were formatting problems with our version. We think the attached corrects them.
- 3508-08 3500 from today
- GX 411 we intend to offer this on Monday. Let us know if you will stipulate to authenticity.
- GX 456 we intend to offer this on Monday. Let us know if you will stipulate to authenticity.
- GX 495A & B we intend to offer these on Monday (likely in redacted form), although think a stipulation that the defendant had bank accounts at HSBC from January 2010 through October 2013 might be simpler. Let us know how you prefer to proceed.
- GX 704 this is the modified version of the travel chart. Please confirm whether you have any remaining concerns.
- GX 705A & B these are summary charts reflecting the information in GX 2090A. Please confirm whether you have any objections.
- Updated GX 2304A we enlarged some of the cells, as the formatting of the PDFd excel file was cutting off some of the data. The content is the same.
- 3504-10 Peri 3500, which was provided in hard copy yesterday morning.
- 3505-06 Blair 3500, which was provided in hard copy yesterday morning.
- 3513-02 Paralegal 3500 for summary chart (you may already have this)
- 3513-03 Paralegal 3500 for summary chart (you may already have this)

We are still working on one additional summary chart, which we expect to provide later today.

Stephanie Lake
Assistant United States Attorney
Southern District of New York
One Saint Andrew's Plaza
New York, NY 10007
Tel: (212) 637-1066

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Brian M. Heberlig 202 429 8134 bheberlig@steptoe.com



1330 Connecticut Avenue, NW Washington, DC 20036-1795 202 429 3000 main www.steptoe.com

September 25, 2018

By Electronic Mail

Andrew DeFilippis
Matthew Laroche
Rebekah Donaleski
Assistant United States Attorneys
Garrett Lynch
Special Assistant United States Attorney
U.S. Attorney's Office for the
Southern District of New York
1 St. Andrew's Plaza
New York, NY 10007

United States v. Ali Sadr Hashemi Nejad, No. 18 Cr. 224 (ALC)

Request for Discovery, Brady Material, and Particulars

Dear Counsel:

Re:

On behalf of defendant Ali Sadr Hashemi Nejad, we request that the government provide "open file" discovery in this case, including the prompt production of all of the documents and other evidence it has obtained in its investigation and all grand jury transcripts, FBI 302s, and interview memoranda.

In the event that you elect not to provide "open file" discovery, Sadr respectfully submits this formal request for discovery in this case, pursuant to the Fifth and Sixth Amendments to the United States Constitution; Rules 12, 16, and 26.2 of the Federal Rules of Criminal Procedure; *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and progeny; the Department of Justice's "Guidance for Prosecutors Regarding Criminal Discovery"; and the additional authority set forth below.

We understand that Sadr's prior counsel at Arnold & Porter made earlier discovery requests in this matter, including requests in letters and emails dated: March 21, March 25,

BEIJING BRUSSELS CHICAGO LONDON LOS ANGELES NEW YORK PHOENIX SAN FRANCISCO WASHINGTON

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September 25, 2018 Page 2



March 29, April 3, May 15, July 5, July 10, July 26, August 2, August 23, and September 4, 2018. We adopt those requests and ask that you provide any future responsive material directly to us. Arnold & Porter has provided us with copies of your prior discovery letters and emails and the discovery productions to date, and we do not need you to reproduce them to us. Although some of these discovery requests overlap with prior requests by Arnold & Porter, we submit them to ensure that Sadr has fully protected his rights to discovery and *Brady/Giglio* material in this matter.

Sadr requests that you produce and/or permit him to inspect and copy or photograph the materials specified below. This request encompasses not only documents¹ and information in the possession, custody, or control of, or that have been reviewed by, the U.S. Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation, but also documents and information in the possession, custody, and control of, or that have been reviewed by, the Manhattan District Attorney's Office, and any other federal, state or local agency allied with the prosecution or involved in any way in investigating the activities alleged in the Indictment or related conduct. As used in this letter, the words "government" and "you" include your office and the above-referenced federal, state, or local agencies.

Sadr requests that the government comply with all of its discovery obligations under federal law, including, but not limited to, the following:²

I. Search Warrant Returns

We request clarification of the government's position on the discoverability of the data and documents collected pursuant to search warrants in the investigation. It is our understanding that the government has produced the full and unfiltered email accounts of Sadr collected pursuant to search warrants. Arnold & Porter requested the "terabyte" of unfiltered data and documents from non-Sadr accounts obtained pursuant to search warrants, in an April 3, 2018 letter and an August 2, 2018 email. With respect to that data, it is our understanding that the government has produced only a subset of materials that it has deemed "pertinent." We reiterate Sadr's request for complete, unfiltered data and documents from all accounts obtained by the

¹ The word "documents" includes, but is not limited to, all books, papers, letters, correspondence, reports, memoranda, studies, calendars, appointment books, diaries, notes, messages, e-mail, text messages, instant messages, other computer facilitated or transmitted materials, images, photographs, polaroids, information in any computer database, audio and video tapes, recordings, transcripts, ledgers, printouts, contracts, checks, receipts, and all copies or portions thereof, and any other written, recorded, or memorialized material of any nature whatsoever.

² All of these requests are continuing in nature, requiring supplementation in accordance with Fed. R. Crim. P. 16(c).



government pursuant to search warrants. If you decline to provide these materials, please indicate:

- 1. The search terms and/or other filtering process used by the government to identify the "pertinent" documents from the search warrant returns for the non-Sadr accounts; and
- 2. How the government has satisfied its *Brady* obligations with respect to the purportedly non-pertinent data and documents from the search warrant returns for the non-Sadr accounts.

II. Statements of the Defendant

- 1. Any written or recorded statements made by Sadr within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the government. *See* Fed. R. Crim. P. 16(a)(1)(B)(i). This request includes, without limitation:
 - a. All notes, reports, and memoranda summarizing any statement by Sadr to law enforcement officials at the time of his arrest;
 - b. All transcripts and recordings of conversations in which Sadr was a participant;
 - c. All wire and oral communications made by Sadr that were transmitted to or intercepted by, for or on behalf of any government agent or employee or any agency or entity of the U.S. government;
 - d. All written and recorded statements of witnesses that reflect, relate, or incorporate any statements made by Sadr; and
 - e. All other documents that purport to reflect, relate, or incorporate any statements made by Sadr.
- 2. The portion of any written record containing the substance of any oral statement made by Sadr, whether before or after arrest, in response to interrogation by any person then known to the defendant to be a government agent. *See* Fed. R. Crim. P. 16(a)(1)(B)(ii). This request includes without limitation, all documents, including notes, prepared by any FBI employee or agent that contain the substance of any relevant statement made by Sadr.
- 3. The substance of any other oral statement made by Sadr, whether before or after arrest, in response to interrogation by any person then known by Sadr to be a government agent. See Fed. R. Crim. P. 16(a)(1)(A).



III. Documents and Tangible Objects

- 1. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, that were obtained from or belong to Sadr, or that belonged to Sadr at the time of the alleged offenses, or that belong or belonged to any agent of Sadr or any entity allegedly owned or controlled by Sadr. *See* Fed. R. Crim. P. 16(a)(1)(E)(iii). This request includes all documents as to which the government or any entity assigned Sadr as a custodian, whether hard copy or electronic records.
- 2. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, that the government intends to use at trial in its case-in-chief. See Fed. R. Crim. P. 16(a)(1)(E)(ii). We request that any materials in this category be specifically identified from among the materials produced pursuant to the defendant's other Rule 16 and Brady requests, both to enable counsel to prepare effectively for trial and to afford Sadr an opportunity to move to suppress any evidence the prosecution intends to use in its case-in-chief. See Fed. R. Crim. P. 12(b)(3)(C) and 12(b)(4)(B).
- 3. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, that are material to the preparation of Sadr's defense, *see* Fed. R. Crim. P. 16(a)(l)(E)(i), including, but not limited to, those items set forth in paragraphs III.4 to III.14 below.
- 4. All documents reflecting the alleged specific "international financial transactions" at issue in Count Two of the indictment. Indictment ¶ 19.
- 5. All documents reflecting the alleged "financial transactions" at issue in Counts Three and Four of the indictment. Indictment ¶¶ 23, 26.
- 6. All documents reflecting the alleged false and fraudulent pretenses, representations and promises at issue in Counts Three and Four of the indictment. Indictment ¶¶ 23, 26.
- 7. All documents reflecting the alleged monetary transactions and transfers at issue in Counts Five and Six of the indictment. Indictment ¶ 29, 32.
- 8. All documents relating to Sadr or the conduct alleged in the indictment that were introduced as exhibits before the grand jury. We request that any materials in this category be specifically identified from among the materials produced pursuant to the defendant's other Rule 16 and *Brady* requests.
- 9. All documents relating to Sadr or the conduct alleged in the indictment that were obtained by or for the grand jury or pursuant to any grand jury or trial subpoena. This request includes any documents furnished informally to prosecutors in lieu of formal compliance with a subpoena.

September 25, 2018 Page 5



- 10. All documents relating to Sadr or the conduct alleged in the indictment obtained from any witness who testified before the grand jury, or who was interviewed or consulted during the course of the grand jury investigation.
- 11. All documents relating to Sadr or the conduct alleged in the indictment that were obtained by any search or seizure pursuant to a search warrant or otherwise.
- 12. All documents relating to Sadr or the conduct alleged in the indictment obtained from any federal, state or local governmental, regulatory or legislative body or agency.
- 13. All documents relating to press releases or press conferences concerning Sadr or the investigation of the defendant, and all other documents relating to any contacts between the government and representatives of the media concerning Sadr or the investigation of the defendant.
- 14. All documents relating to the reputation of Sadr, including, without limitation, any documents relating to Sadr's reputation for honesty, integrity, or competence.

IV. Brady and Giglio Material

Pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, including *Giglio v. United States*, 405 U.S. 150 (1972), *United States v. Agurs*, 427 U.S. 97 (1976), *United States v. Bagley*, 473 U.S. 667 (1985), *Kyles v. Whitney*, 514 U.S. 419 (1995), and New York Rule of Professional Conduct 3.8, Sadr requests immediate identification and disclosure of all documents and information (in whatever form) that are favorable to the defense or that would tend to exculpate Sadr or mitigate his culpability with respect to the charges in the indictment, that would tend to impeach any potential witness against Sadr, or that are relevant to the issue of sentencing, including but not limited to the following:

- 1. Any document or information indicating or tending to establish that any of the allegations in the indictment are not true.
- 2. Any document or information indicating or tending to establish that any meeting, conversation, use of words, practice, or conduct that is the subject of the indictment or forms the basis of the indictment did not violate government laws, regulations, standards or established business practices.
- 3. Any document or information indicating or tending to establish that Sadr believed that any meeting, conversation, use of words, practice, or conduct that is the subject of the indictment or forms the basis of the indictment did not constitute a crime.
- 4. Any document or information indicating or tending to establish that any other person (including but not limited to the alleged co-conspirators) believed that any meeting, conversation, use of words, practice, or conduct that is the subject of the indictment or forms the basis of the indictment did not constitute a crime.

September 25, 2018 Page 6



- 5. Any documents or information indicating or tending to establish that Sadr did not instigate, control, authorize, approve, or acquiesce in the practices that are the subject of the indictment.
- 6. Any documents or information indicating or tending to establish that the alleged false or fraudulent pretenses were not false.
- 7. Any documents or information indicating or tending to establish that the alleged false or fraudulent pretenses were not material.
- 8. Any documents or information indicating or tending to establish that a third person was responsible for the financial transactions at issue in any count of the indictment.
- 9. Any document or information indicating or tending to establish that Sadr engaged in any conduct that forms the basis of the indictment in reliance upon advice provided by counsel or accountants.
- 10. Any document or information (in whatever form) that could be used to impeach any potential government witness, or any person whose statements will be introduced pursuant to Fed. R. Evid. 801(d)(2)(C), (D), or (E), including but not limited to:
 - a. Any document or information relating to any conviction, arrest, or criminal record of, and any criminal charge brought against, any potential government witness;
 - b. Any document or information relating to promises, consideration, or inducements made to any potential government witness, whether directly to the witness or indirectly to the witness' attorney, friends, family, employer, business associates, or other culpable or at risk third-party. "Consideration" means anything of value or use, including immunity grants, whether formal or informal, witness fees, transportation or relocation assistance, money, dropped or reduced charges or suggestions of favorable treatment with respect to any federal, state or local criminal, civil, or administrative matter, expectations of downward departures or motions for reduction of sentence, considerations regarding forfeiture of assets, or stays of deportation or other immigration status considerations;
 - c. Any document or information tending to show the bias of a potential government witness, including animosity toward Sadr, animosity toward any group or entity of which Sadr is a member or with which Sadr is affiliated, a relationship with the alleged victim, or known but uncharged criminal conduct that may provide an incentive to curry favor with a prosecutor;
 - d. Any document or information affecting the reliability of a potential government witness's testimony, including known alcohol or substance

September 25, 2018 Page 7



- abuse, mental health issues or other issues that could affect the witness's ability to perceive and recall events;
- e. Any document or information relating to any inconsistency in statements given by any potential government witness;
- f. Any document or information relating to any inconsistency between agents' and/or prosecutors' rough notes and FBI 302s or other memoranda of interviews of any potential government witness;
- g. Any document or information bearing adversely on the character or reputation for truthfulness of any potential government witness; and
- h. Each specific instance of conduct from which it could be inferred that any potential government witness is untruthful.
- 11. The date of and participants in each and every interview (including not only interviews conducted by the U.S. Attorney's Office or the Manhattan District Attorney's Office, but also interviews conducted by third parties), debriefing, "queen for a day" session, proffer, deposition, or other statement or description of the alleged facts made by each potential government witness (whether directly or indirectly, such as a proffer made by counsel). In addition, please specify, as to each such witness, the first date on which the witness made any allegation that Sadr engaged in any allegedly unlawful conduct or any conduct alleged in the indictment.

As you are aware, New York has adopted Rule of Professional Conduct 3.8, entitled "Special Responsibilities of Prosecutors and Other Government Lawyers," which provides that a prosecutor "shall make timely disclosure to [the defense] of evidence or information known to the prosecutor or other government lawyer that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the sentence" Rule 3.8(b). The Supreme Court has recognized that Rule 3.8 imposes a higher standard on prosecutors than the standards mandating disclosure of exculpatory evidence under *Brady*. See Kyles, 514 U.S. at 437 ("[Brady] requires less of the prosecution than the ABA Standards for Criminal Justice, which call generally for prosecutorial disclosures of any evidence tending to exculpate or mitigate."); ABA Standards for Criminal Justice, Prosecution Function and Defense Function 3-3.11(a) (3d ed. 1993) ("A prosecutor should not intentionally fail to make timely disclosure to the defense, at the earliest feasible opportunity, of the existence of all evidence or information which tends to negate the guilt of the accused or mitigate the offense charged or which would tend to reduce the punishment of the accused"); ABA Model Rule of Professional Conduct 3.8(d) (1984) ("The prosecutor in a criminal case shall . . . make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense").

We contend that the foregoing categories of information constitute *Brady* and Rule 3.8(b) material, and that disclosure should take place immediately. Sadr further requests that the

September 25, 2018 Page 8



government identify with particularity and provide copies of all materials that qualify as *Brady* and Rule 3.8 material, as described above. Please advise us promptly whether the government will be producing *Brady* material immediately even if it is contained in what might otherwise be considered as *Jencks* material, or whether you take the position that you are not obligated to produce such material at this time.

We also request the underlying source material for any *Brady* and Rule 3.8(d) information, as opposed to any summary letter or paraphrased description of the information. Please advise us promptly whether the government will not be producing underlying source material.

For purposes of the *Brady* doctrine, "the format of the information does not determine whether it is discoverable." U.S. Attorneys' Manual § 9-5.002.B.5 (2018). For example, material exculpatory information that is provided "during a conversation with an agent or a witness is no less discoverable than if that same information were contained in an email." *Id.* We therefore request that all such information be memorialized and produced to Sadr.

V. Purportedly Privileged Material

Sadr specifically requests that the government produce all documents or information (in whatever form) produced to the government—or over which the government otherwise has custody, control, or possession—that are responsive to Sadr's discovery and *Brady/Giglio* requests contained herein or that the government would otherwise be legally required to produce, over which any individual or entity has asserted the attorney-client privilege and/or the attorney work product doctrine. This request applies to all such documents produced pursuant to (a) a non-waiver agreement between any individual or entity and the government, (b) a court order pursuant to Fed. R. Evid. 502, or (c) a court order concluding that the documents are covered by the crime-fraud exception to the attorney-client privilege.

Sadr also requests that you identify any person or entity that has asserted any attorney-client privilege, work product privilege, common interest privilege, or any other privilege as the basis for withholding or not producing, in whole or in part, any documents to the government or the grand jury during the investigation. Sadr further requests that you provide all documents (including all privilege logs) with respect to the assertion of or challenge to any such claimed privileges. This request specifically encompasses all pleadings, court orders, correspondence, and other material related to any grand jury litigation by the government in which it challenged any assertion of any privilege.

VI. Criminal Records

Pursuant to Rule 16(a)(1)(D) of the Federal Rules of Criminal Procedure, Sadr requests copies of his prior criminal record, if any.



VII. Jencks Material

Pursuant to the Jencks Act, 18 U.S.C. § 3500, and Rule 26.2 of the Federal Rules of Criminal Procedure, Sadr requests that the government provide a list of the names and addresses of all witnesses that the government intends to call in its case-in-chief and all statements of those witnesses in the possession, custody, or control of the government or any other government entity, including, but not limited to, notes of interviews, FBI 302s, or other summaries prepared by government attorneys or agents, and grand jury transcripts and any other witness statements. We request that the government begin providing this material as soon as possible, or in any event no later than ninety (90) days prior to the start of trial.

VIII. Scientific Evidence

Pursuant to Rule 16(a)(1)(F) of the Federal Rules of Criminal Procedure, Sadr requests documentation relating to all requests for, and the results of, physical or mental examinations, scientific tests, or experiments that were conducted in connection with the investigation of the charges contained in the indictment. This includes, but is not limited to:

- a. all forensic examinations of any computer hard drive, handheld cellular telephone or mobile device that Sadr possessed or to which Sadr had access;
- b. all handwriting exemplars, handwriting samples, handwriting or document analyses, and all documents examined or used in or related to such analyses;
- c. all fingerprint and palm print exemplars, fingerprint samples, comparisons, and opinions of fingerprint experts, and all documents examined or used in connection with, or that relate to, those opinions; and
- d. all polygraph examinations, psychological stress examinations, hypnotic procedures, or any other scientific procedures devised to determine whether a subject is telling the truth, or to refresh a witness' memory, and all documents that refer or relate to such examinations.

IX. Other Crimes Evidence

Pursuant to the Fifth and Sixth Amendments to the United States Constitution and Rules 403 and 404(b)(2) of the Federal Rules of Evidence, Sadr requests that the government disclose all evidence of similar crimes, wrongs, or acts, allegedly committed by Sadr (or any person alleged to have been acting pursuant to his instructions), upon which the government intends to rely on at trial.



X. Suppression Issues

- 1. As a predicate to potential motions pursuant to Rule 12(b) of the Federal Rules Of Criminal Procedure, *see* Rule 12(b)(4)(B), Sadr requests that he be informed:
 - a. Whether the government intends to offer into evidence any statement made by Sadr or any family member, and the substance of any such statement;
 - b. Whether any evidence in the government's possession, custody, or control was obtained by a search and seizure conducted by the government, and a description of such evidence;
 - c. Whether any evidence in the government's possession, custody, or control was obtained through electronic or mechanical surveillance, including without limitation, wiretaps, body wires, pen registers, and/or surveillance of telephone calls, and a description of such evidence;
 - d. Whether any evidence in the government's possession, custody, or control was obtained through the use of a beeper or other tracking device, and a description of such evidence;
 - e. In connection with any tape recording, wiretaps, or other surveillance of the defendant during the investigation of the allegations of the indictment or any related allegations, Sadr seeks:
 - i. The names and addresses of all such persons whose personal or business telephones the government tapped or monitored, or whose conversations or actions the government monitored by other means without the person's knowledge;
 - ii. Transcripts or other records of the statements or conversations monitored;
 - iii. The original recorded tapes created during such surveillance;
 - iv. The procedures used to conduct such surveillance; and
 - v. The authority under which such surveillance was conducted.
 - f. Whether any evidence in the government's possession, custody, or control was obtained through a mail cover and/or trash cover and a description of such evidence; and
 - g. The identities of any informant or undercover agent employed by the government during its investigation of the charges of the indictment.



- 2. Sadr requests that the prosecution disclose whether it intends to offer in its case-in-chief, as a statement by the defendant, any of the following, and that it provide the substance of any such statement:
 - a. Any statement as to which the defendant allegedly manifested his adoption or belief in its truth. See Fed. R. Evid. 801(d)(2)(B).
 - b. Any statement made by another which was purportedly authorized by the defendant. *See* Fed. R. Evid. 801(d)(2)(C).
 - c. Any statement made by an agent or servant of the defendant concerning a matter within the scope of his agency or employment made during the existence of such a relationship. *See* Fed. R. Evid. 801(d)(2)(D).
 - d. Any statement made by an alleged co-conspirator of the defendant during the course and in furtherance of any alleged conspiracy. *See* Fed. R. Evid. 801(d)(2)(E).

XI. Hearsay

Sadr requests notice of any hearsay statement that the government plans to offer at trial under Federal Rule of Evidence 807, including its particulars, the declarant's name and address, and other information giving Sadr a fair opportunity to meet the statement. Fed. R. Evid. 807(b).

XII. Charts and Summaries

Pursuant to Fed. R. Evid. 1006, Sadr requests that he be advised whether the government will seek to offer any chart, summary, or calculation in evidence and, if so, (1) that all such charts, summaries, and calculations be produced, and (2) that all writings, recordings, or other information on which such charts, summaries, or calculations are based be made available for inspection and copying.

XIII. Electronically Stored Information

Sadr requests that the government comply with the "Recommendations for Electronically Stored Information (ESI) Discovery Production in Federal Criminal Cases" issued by the Department of Justice and Administrative Office of the U.S. Courts Joint Working Group on Electronic Technology in the Criminal Justice System in February 2012. To that end, Sadr requests the ability to "meet and confer" with the government as needed to discuss the nature, volume, and mechanics of the government's production of ESI discovery. Among other things, Sadr makes the following requests:

1. The government should produce ESI received from third parties in the format it was received. However, if the government has further processed ESI received from third parties, such as by adding load files, converting native files to TIFF images, extracting metadata or other coding, or making electronic files



searchable, the government should produce such enhanced ESI in discovery to save Sadr the expense of replicating this work. Sadr does not seek any government attorney work product by this request.

- 2. The government should produce a table of contents describing the general categories of information available as ESI discovery in order to expedite Sadr's review of discovery and avoid discovery disputes, unnecessary expense, and undue delay. Further, the government should produce the cover letters that accompanied and described the third party productions of ESI and other documents to facilitate Sadr's review.
- 3. For all ESI produced from a seized, searched, or subpoenaed third-party digital device (e.g., computer, hard drive, thumb drive, CD, DVD, cell phone, Blackberry, iPhone, Android, smart phone, smart watch, or personal digital assistant), the government should identify the digital device that held the ESI, identify the device's owner or custodian, and identify the location where the device was seized, searched, or from where it was produced.
- 4. The government should produce any materials received in paper form in converted digital files that can be viewed and searched. These materials should be produced in multi-page TIFF and OCR format where each document is one file that may have multiple pages. Alternatively, a less preferable option would be production in multi-page, searchable PDF format. Under no circumstances should paper materials be converted into single-page TIFF images without document breaks.
- 5. All production of ESI should maintain parent-child relationships between documents, such as where an email (the parent document) has attachments (the child documents).

XIV. Bill of Particulars

We also adopt Arnold & Porter's August 23, 2018 letter requesting a bill of particulars regarding the allegations in the indictment. We need specification of those allegations in the indictment to permit Sadr to prepare to defend the charges against him. Please advise us whether the government will provide the requested information so that we can determine whether it will be necessary to move for a bill of particulars under Federal Rule of Criminal Procedure 7(f).

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September 25, 2018 Page 13



Please let us know promptly whether there are any requests set forth in this letter with which you decline to comply. We are available to discuss any of the foregoing requests at your convenience. We reserve the right to supplement these requests as we continue to review the discovery material and prepare for trial. Thank you for your consideration.

Sincerely,

Brian M. Heberlig